IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

MRS. SAMUEL E. ALLGOOD, individually and as independent executrix of the estate of SAMUEL E. ALLGOOD, MARCUS ALLGOOD and MALCOLM ALLGOOD,	)	
Plaintiffs,	)	
vs.	)	CIVIL ACTION NO. H-91-0158
R. J. REYNOLDS TOBACCO COMPANY, THE AMERICAN TOBACCO COMPANY, THE TOBACCO INSTITUTE, INC., and THE COUNCIL FOR TOBACCO RESEARCH-U.S.A., INC.,	)	
Defendants.	)	

ORIGINAL

DEPOSITION OF ROBERT P. HUDSON, M.D.,

produced, sworn and examined on Monday, the 14th day of March, 1994, between the hours of 8 o'clock in the forenoon and 6 o'clock in the afternoon of that day at Kansas University Medical Center, 39th and Rainbow Boulevard, in the City of Kansas City, County of Wyandotte, State of Kansas, before:

ANN M. HAMILTON, RPR
Registered Professional Reporter
of
JAY E. SUDDRETH & ASSOCIATES, INC.
Suite 100, 10104 West 105th Street
Overland Park, Kansas 66212

a Certified Shorthand Reporter within and for the State of Kansas.

Taken on behalf of Plaintiffs pursuant to Notice and Subpoena to Take Depositions.

http://legacy.library.ucsf.edu/tid/obp07a00/pdf
http://www.tobaccoindustrydocuments.ucsf.edu/docs/jthl0001

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ROBERT P. HUDSON, M.D.,

of lawful age, after having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

MR. HOLFORD: This will be by the federal rules of civil procedure.

EXAMINATION

BY: MR. HOLFORD:

Q. As to reading and signing, do you know what that is, Dr. Hudson?

A. No.

Q. Okay. After the reporter, Ann Hamilton, here gets done with her work, you or one of your counsel, one of -- sorry, one of the defendants' counsel here will receive a copy of this transcript, and if you wish a copy can be submitted to you for you to read it, see if you -- what you think about it.

We'll stipulate you can sign it before any notary public so you don't have to come into their office. I'm sure you've got notaries here.

A. Yes.

Q. And, now, do you wish to do that?

A. If there are errors in it can you change it? I guess I would like to see it.

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MR. CRUSE: I think that's a good idea.

Q. (By Mr. Holford) You wouldn't write on the, what you're sent. There will be what's called errata sheet with it, and you just make your notes on there with page in mind. I'm sure you can call any of these gentlemen here and they'll tell you.

State your full name, sir.

A. Robert Paul Hudson.

Q. And what is your residence address?

A. 12925 Frontier Road, Olathe, Kansas, 66061.

Q. How long have you been living there?

A. Since 1976.

Q. What's your business address?

A. The University of Kansas Medical Center, 39th and Rainbow, Kansas City, Kansas, 66061.

Q. That's where we are now?

A. Yes, sir.

Q. What's your home phone?

A. It's (913) 856-6440.

Q. And your business phone?

A. (913) 588-7040.

Q. And what are you charging plaintiffs for your time at this deposition?

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A. $250 an hour.

Q. At two previous such depositions I've brought a check to make out at the end and submit, I forgot my check this trip. If we see what time we have, can I mail it from Houston, when I get back, to your home address?

A. I didn't understand you paid me.

MR. CRUSE: He uses this check deal every time.

Q. (By Mr. Holford) Is that all right?

A. Certainly.

Q. Thank you, sir. Well, I'm Doug Holford; we just met, right?

A. Right.

Q. We never met before, we never talked before; is that right?

A. No. That's correct.

Q. Did you do military service, sir?

A. Yes, I did.

Q. And how old are you, sir?

A. I'm 68.

Q. What were the years of that service?

A. 1946 for about three months, and again from 1953 to 1955.

Q. What was the three months in '46?

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A. That was in the United States Navy when I was discharged for tuberculosis.

Q. You mean you entered active duty with the Navy, then in three months you were discharged for tuberculosis?

A. Correct.

Q. What was your rank on entry of active duty?

A. Apprentice seaman.

Q. You were drafted?

A. I enlisted in lieu of being drafted in the Army, correct.

Q. And what happened in '53 for your service?

A. I went to Fort Bragg as a medical officer, as a first lieutenant, in the 82nd Airborne Division, and spent two years there.

Q. So you were in what service was that?

A. Army.

Q. So between '46 and '53 you had graduated from medical school and become a practicing doctor?

A. I had just finished my internship, yes.

Q. And so you got a direct commission as a lieutenant in the Army?

A. In the medical corps, correct.

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Q. And they could have assigned you at any of their bases, but they chose Fort Bragg to put you there to be a doctor; is that right?

A. No, I volunteered for the Airborne, parachutists, and that's one of the only two or three places that they could send me.

Q. Did you jump qualify?

A. Yes.

Q. Did you ever make any jumps in conflict?

A. No.

Q. Did you spend your entire time at Fort Bragg?

A. Yes.

Q. In either 1946, or in 1953 to '55, did you ever see any conflict?

A. No.

Q. Where were you raised, sir?

A. I spent the first five years in Weston, Missouri; the next 14 years in south central Texas; and from 1948 or so on back in Kansas City, Kansas, and have been in this area except for graduate education and my military service ever since.

Q. What is your position work position now?

A. Professor and chairman of the Department of History and Philosophy of Medicine.

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Q. Are you working full time?

A. Yes.

Q. What year did you start practicing medicine?

A. 1952.

Q. Upon graduation of medical school?

A. Yes.

Q. Now, have you ever given a deposition before?

A. No, sir.

Q. Well, I'll explain; and, of course, these counsel can disagree if they want, that your answers here are under oath, and my questions, the remarks of anybody in this room, are going to be taken down, and that document available for use at the trial of the case.

You are under oath and are being questioned just as though you would have if you were at trial and on the witness stand and sworn to give the truth there; do you understand that?

A. Yes.

Q. And do you understand that the effect of your answers are the same as if you were on the stand at trial sworn and testifying?

A. Yes.

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Q. For that reason, Dr. Hudson, I have a couple of groundrules -- I mean, they're my rules, they're not yours yet, if someone asks you about them. First of all, and we've had no problem yet, but you should wait until I have finished my question until you start any answer.

A. Fine.

Q. All right. And if I ask you any question and for any reason you don't understand it, please don't try to guess at it or answer it in any way, just tell me you don't understand it; is that fair?

A. Yes.

Q. Will you do that?

A. Yes, sir.

Q. So if we look at this transcript after this deposition and there's a question by me followed simply by an answer by you, can we fairly understand that you understood that question?

A. Yes.

MR. CRUSE: Subject to his right to read and sign.

MR. HOLFORD: Of course.

Q. (By Mr. Holford) Have you given any testimony under oath before?

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A. Yes.

Q. Was some of this as a treating physician?

A. No.

Q. Was any of this as a testifying expert?

A. No, sir.

Q. How many times was this?

A. Twice.

Q. What was the first of those?

A. The nature of the suit?

Q. The nature of your being called to give testimony; yes, sir.

A. As a -- I suppose I would say as a character witness for an individual who had been accused of racial discrimination against black medical students.

Q. Do you know the difference between fact and opinion testimony?

A. I believe so.

Q. Did you testify in that instance purely as a fact witness?

A. Yes.

Q. And then what was the next one, sir?

A. It was a re-trial of the same suit.

Q. This was a race discrimination suit?

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A. Yes, sir.

Q. By medical students at this institution?

A. Yes, sir.

Q. So both of your instances of testifying under oath before were at trial?

A. Yes, sir.

Q. Do you know the difference between a witness retained to testify as an expert and a witness retained -- I'm sorry, an expert retained just for consulting?

A. I'm not certain I do.

Q. Have you ever been asked in your professional capacity to give opinions to a lawyer but told you were not expected to testify in the matter, they just wanted your opinions on the matter?

A. No.

Q. Now, you have been retained as a testifying expert in this case?

A. That's my understanding, yes.

Q. And so aside from your activities in this case, there's been no other case that you've been called upon as an expert in any way; is that right?

A. No.

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Q. How many other instances are there?

A. One.

Q. When was that approximately, sir?

A. Approximately -- began approximately 1990.

Q. When did it end?

A. About, I suppose, January or so of 1993.

Q. Was that an instance where you were retained as a testifying expert also?

A. It was my understanding I might be called to testify, yes.

Q. I gather you didn't have to in that case?

A. That's correct.

Q. Did the case settle?

A. I honestly don't know why it was dropped.

Q. Who hired you for that?

A. Just a minute.

MR. BIERSTEKER: I want to interpose an objection. It's not clear to me whether -- Dr. Hudson has indicated that he doesn't have a clear understanding of the difference between consulting and testifying expert, and it's not clear to me that he was going to be a testifying expert in that

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case as opposed to a consulting expert, and maybe we should clarify that before we pursue this further.

Q. (By Mr. Holford) Dr. Hudson, you were retained in that case you just mentioned as a testifying expert, but you didn't -- you ended up not having to testify?

MR. CRUSE: He didn't say that. He said he didn't know.

Q. (By Mr. Holford) I'm sorry. Is that right?

A. I said I assumed that I might have to testify.

Q. Oh, you weren't told that by the lawyer?

A. Well, I meant by that that I assumed I would testify if it went to trial.

Q. But did the lawyer tell you that they were hiring you and got your opinions so that they could put you on as an expert at trial?

A. Yes.

Q. Who hired you?

A. I do not have the records for that.

Q. What can you remember about it?

A. Well --

Q. To identify that instance, I mean?

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A. Oh, I do have it. I beg your pardon. It was Arnold & Porter.

Q. Are they out of New York?

A. We met here always and I visited them there once, I believe it was in Washington.

Q. Did you meet with the lawyer or lawyers from Arnold & Porter a lot?

MR. RILEY: Object to form of the question.

MR. BIERSTEKER: Ambiguous, "a lot."

Q. (By Mr. Holford) More than once?

A. Yes.

Q. All right. More than ten times?

A. No.

Q. More than five times?

A. That would be about right, I would guess.

Q. And in what area were you asked for your opinions in that case?

A. I was asked to formulate an opinion as to what the scientific community knew about the relationship between cigarette smoking and tobacco and lung cancer, and when they knew it.

Q. Pretty much like this case; is that right?

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A. Except for cancer of the larynx, very much like this case.

Q. And that was when the medical community knew it?

A. Scientific community.

Q. Scientific?

A. In general.

Q. Did you give Arnold & Porter a written report?

A. No.

Q. Have you given the defendants here a written report?

A. No.

Q. Do you know who the clients of Arnold & Porter were for that hiring?

MR. BIERSTEKER: Object to the form of the question.

A. (Witness Answers) I know it was one or more tobacco companies, I don't know exactly which, no.

Q. (By Mr. Holford) Do you remember anything about the name of the plaintiffs?

A. If I can give a qualified answer about this --

Q. Sure.

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A. I know it began after the Chipalone case was involved, but I can't recall whether that's exactly the case that I was involved in. We never went over any of the details of the individual involved, it just never came up again.

Q. Do you know if the case was filed in -- or start over.

Do you know where the case was filed?

A. No, sir.

Q. Were you deposed in that case?

A. No, sir.

Q. Who was the attorney or attorneys from Arnold & Porter that you talked with?

A. Mr. Murray Garnick was the principal attorney.

Q. Did you know Mr. Murray Garnick before you were contacted on that case?

A. No, sir.

Q. Do you know how he got your name?

A. I believe he got it from Professor John Burnham of Ohio State University.

Q. So Mr. Murray Garnick knew, is it Professor John Burnham?

A. Yes.

Q. Do you know how Mr. Murray Garnick came

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to know Professor John Burnham?

A. No, sir.

Q. How long have you known Professor John Burnham?

A. Probably 20 years.

Q. Is Professor John Burnham involved in these tobacco matters?

MR. BIERSTEKER: Objection to form of the question, ambiguous, "involved in."

Q. (By Mr. Holford) Do you know how these objections work?

A. I can go ahead and answer.

Q. Yes, sir.

A. He has written on the subject. I do not know if he's ever been involved as an expert or testified.

Q. What makes you suppose that Mr. Murray Garnick got your name from Professor John Burnham?

A. Both Mr. Garnick and Professor Burnham and I discussed it afterward.

Q. So on your first meeting or first contact by Murray Garnick, Professor Burnham was there?

A. No.

Q. But on the first substantial discussion

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you had about the matter, that case with Arnold & Porter, Professor Burnham was there?

A. No.

MR. RILEY: Object to the form of the question.

Q. (By Mr. Holford) On some of the instances of your discussions with Murray Garnick on the, that case, Professor Burnham was there?

A. No.

Q. He was there by telephone?

A. No.

Q. Well, how did you discuss it with him?

A. By saying I discussed it with him, I discussed only the fact that Mr. Garnick had told me that Professor Burnham had identified me as someone who might be willing to look into this matter.

Q. Did Professor Burnham call you and ask your permission to give your name to Mr. Murray Garnick?

A. No.

Q. You mean your understanding is Professor Burnham gave your name to Murray Garnick and then called you later and told you about it?

A. No.

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Q. How did it go?

A. We met at the annual meeting of American Association for the History of Medicine, and it was just a casual passing comment.

Q. Well, that was a meeting between you and Professor Burnham?

A. Yes, sir.

Q. And in that casual meeting did Professor Burnham indicate that he had already given your name to Murray Garnick?

A. Yes, I asked him about it.

Q. Did you ask him because Murray Garnick had already contacted you?

A. Yes.

Q. Did Murray Garnick tell you that he got your name from Professor Burnham?

A. I believe so.

Q. Well, at some point you gave Murray -- back up.

Is Murray Garnick the only Arnold & Porter lawyer that you were in contact with in that case?

A. No.

Q. Who were anyone else?

A. I don't know any of their names.

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Q. Did you discuss your opinions in that case -- back up.

Did you form opinions in that case?

A. Yes.

Q. Did you discuss your opinions in that case with any lawyer other than Murray Garnick?

A. Yes.

Q. But you don't remember their name?

A. No, sir.

Q. They were Arnold & Porter lawyers?

A. I don't know for certain.

Q. They could have been co-defendant counsel, in other words?

A. They were in Arnold & Porter's offices at the meeting when I went back to Washington.

Q. But you didn't know whether they were Arnold & Porter lawyers or not?

A. No.

Q. Is that correct?

A. That's correct.

Q. Are all the opinions that you formed in that case with Arnold & Porter essentially the same as the opinions you formed in this case?

MR. BIERSTEKER: Object to the form. He's already testified they're different.

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MR. RILEY: Object to the form.

A. (Witness Answers) I'd have to say no.

Q. (By Mr. Holford) Aside from the, whatever differences there may be in your opinions because this is a laryngeal cancer case and that was a lung cancer case, are all the opinions that you formed in that case with Arnold & Porter the same as the cases, the opinions you formed in this case?

MR. BIERSTEKER: Object to the form of the question. It assumes the prior case was a lung cancer case, that's not a fact in evidence. You may answer.

Q. (By Mr. Holford) I'll rephrase. What was the disease in that case?

A. In --

Q. The case with Arnold & Porter. I'm sorry.

A. It was my understanding it was a cancer of the lung.

Q. So aside from any differences there may be because this is a laryngeal cancer case and that was a lung cancer case, are all of the opinions that you formed in that case with Arnold & Porter substantially the same as those opinions you've

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formed in this case?

MR. RILEY: Object to form.

MR. BIERSTEKER: Object to the form of the question.

A. (Witness Answers) Many of them were.

Q. (By Mr. Holford) Is it fair to say almost all of them are?

MR. RILEY: Object to the form.

Q. (By Mr. Holford) Except for the differences that may be because of that's a lung cancer case and this is a laryngeal cancer case?

MR. RILEY: Same objection.

MR. BIERSTEKER: Yes.

A. (Witness Answers) I have trouble with the words you've asked in sort of quantifying the answer. I can only say many of them were the same.

Q. (By Mr. Holford) Dr. Hudson, I'm putting this to you as a hypothetical -- you understand what that is, right?

A. Yes, sir.

Q. If a cigarette manufacturer had a legal duty to warn its smokers about the health risks associated with smoking in the late 1930's, would it make any difference if that legal duty arose because of knowledge about lung cancer versus, say,

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laryngeal cancer?

MR. RILEY: Object to form of the question. I think it calls for a legal conclusion.

MR. CRUSE: Yeah, he's not qualified to give a legal conclusion.

Q. (By Mr. Holford) Do you understand my question?

A. I believe so.

Q. Can you answer it?

MR. RILEY: Same objection.

A. (Witness Answers) I interpret it to be a legal question, and I don't believe I can.

Q. (By Mr. Holford) Professor Hudson -- actually, I can call you Professor or Doctor, right?

A. Yes, sir.

Q. Well, which do you prefer?

A. It's immaterial.

Q. Well --

MR. CRUSE: Make him call you both.

MR. HOLFORD: I think that's the German practice.

THE WITNESS: Doctor Professor.

Q. (By Mr. Holford) Professor Hudson, this whole hospital is a not smoking facility, right?

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A. Within the confines of the building; yes, sir.

Q. And, I mean, if a person inside the building wants to smoke, they've got to go outside?

A. Correct.

Q. That was something that was imposed voluntarily by this Kansas University Medical Center, right?

A. As far as I know.

Q. It's not from Washington that you had to do that, right?

A. It's my understanding, yes.

Q. Do you know why they did that?

A. I don't even know for certain who did it.

Q. Whoever did it, do you know why they did it?

A. Not as a matter of fact.

Q. Well, you've been a doctor a long time, right?

A. Yes. Yes, sir.

Q. So when I say do you know, I don't necessarily mean just as a matter of fact, I mean as a doctor sitting there having been with this facility for a very long time?

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MR. CRUSE: Wait a minute.

MR. BIERSTEKER: I object to the question.

MR. CRUSE: I want to repeat what you said, I wrote it down at the very first on your groundrules. You said don't guess at it, and so if you don't know you should follow Mr. Holford's instruction and not guess at the answer.

Q. (By Mr. Holford) Yeah. Well, that's in case you didn't understand my question. I mean, Mr. Cruse kind of read his own rule there.

MR. CRUSE: No, I read exactly what you said, I wrote it down. You said don't guess at the answer, that way you could rely on him as being correct.

MR. HOLFORD: I object to the side bar. As usual, Mr. Cruse, the record will be real clear on that.

MR. CRUSE: I will bet you money that's what you said.

MR. HOLFORD: That's not all I said.

MR. BIERSTEKER: Sam doesn't usually lose those bets, I know.

MR. RILEY: So do I.

Q. (By Mr. Holford) Dr. Hudson, as a

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medical doctor, do you have an idea why this facility is voluntarily non-smoking?

A. Yes.

Q. What is that?

A. The belief that it is hazardous to the health of those within the building.

Q. Do you share that belief?

A. Yes, sir.

Q. At some time in your career, Dr. Hudson, have you been a treating physician?

A. Yes, sir.

Q. How many of the years have you been, since 1952, have you been a treating physician?

A. Between 20 and 25.

Q. Do you yourself smoke, sir?

A. No, sir.

Q. Have you ever?

A. Yes, sir.

Q. When you were smoking, how much were you smoking per day?

A. On the average of a pack a day.

Q. Is that the most you've ever smoked?

A. Yes, sir.

Q. When did you -- what is your best memory of the year in which you had your last cigarette

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ever?

A. 1947.

Q. How old were you then?

A. 21.

Q. Do you remember your age at which you experienced your first tobacco product?

MR. BIERSTEKER: I object to the form of the question. I don't know what you mean by experienced his first tobacco product; the first time you saw it?

Q. (By Mr. Holford) That's fair; smoked?

A. I began smoking about age 12.

Q. Okay. And are you referring to when you regularly were smoking, or is that the very first time that you ever smoked?

A. No, more regularly.

Q. Now, you grew up where there was corn, right?

A. Very little.

Q. Oh, is that right?

A. Yes.

Q. Well, I mean, I'm aware of young people will try corn silk and other such things; did you ever do that?

A. Yes.

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Q. And what was your age of when you first ever did that?

A. I can't say that.

Q. Would around five or six be fair?

A. I would say later than that, yes.

Q. Eight or nine?

A. Eight, nine, ten.

Q. Somewhere around there. Is it fair to say -- do you remember what that was?

A. Yes, I do.

Q. What was that?

A. It was cedar bark.

Q. Do you have an older brother maybe?

A. Yes.

Q. Did he give you that cedar bark?

A. I don't recall.

Q. Well, is it fair to say that you more or less graduated from that cedar bark to tobacco?

A. To Bull Durham.

Q. Did you have to roll your own?

A. Yes, sir.

Q. Did you get pretty good at it?

A. Yes, sir.

Q. And how long did you use the Bull Durham?

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A. Probably until about 1938.

Q. What age?

A. That would have been 12, 13.

Q. So you rolled your own with Bull Durham for two or three years?

A. And graduated to Kite, a menthol roll-your-own, yes.

Q. So how old were you when you did have your first tobacco product?

MR. BIERSTEKER: Objection. Asked and answered.

MR. WALLACE: Asked and answered.

A. (Witness Answers) I honestly can't say when I first did it.

Q. (By Mr. Holford) Nine or ten, or --

A. I'm estimating that, yes.

Q. And so how many years after that were you using the Bull Durham or the Kite?

A. Probably --

MR. RILEY: Object to form of the question. Are you asking about the Bull Durham or the Kite?

Q. (By Mr. Holford) Roll your own.

A. Probably until 1939, which would have made it about 13.

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Q. And so that roll-your-own period was around three years, or --

A. No, it was longer than that.

Q. Four years?

A. More like six or seven years.

Q. And then you went to what, or did you then smoke something else?

A. I smoked something else between the Kite and began -- and buy-your-own ready mades, yes.

Q. What was that?

A. Cigarette butts from the street.

Q. Was that because you couldn't afford the tobacco anymore?

A. That's right.

Q. But rather than not smoke, you took butts from the street?

A. Yes.

Q. How many years did you do that?

A. Probably three or four.

Q. To how old were you then?

A. Till I was 16 or so.

Q. And then did you go to a cigarette?

A. Yes.

Q. What was that?

A. Many different brands. I believe I

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probably started with Camel, but I'm not positive.

Q. Do you have a memory of why you started with Camel's?

A. Not the faintest.

Q. And then you smoked various already rolled cigarettes until 1947, is that --

A. Till I was 21.

Q. Back when you were rolling your own Bull Durham, by that time were you smoking daily?

A. Probably in the later part of that period. I don't recall exactly how often I smoked back then.

Q. By the time you got to the Kite you were smoking daily?

A. I can't even say that for certain.

Q. Probably?

A. Oh, daily?

Q. Yes, sir; daily?

A. Probably, yes.

Q. Do you think by the time -- was that a matter of necessity to pick the butts up and smoke them?

A. Yes, sir.

Q. Do you think by the time that necessity came to you you were, you were already addicted to

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smoking?

MR. BIERSTEKER: Objection to form of the question.

A. (Witness Answers) I don't believe I was ever addicted to cigarette smoking.

Q. (By Mr. Holford) So when it came it 1947, you were 21, you decided just to give them up, you didn't have any real problem with that then, right?

A. I can't say I didn't miss them, but I had no relapses.

Q. Because you never smoked enough to, in your memory you never -- you know what nicotine addiction is, don't you?

MR. RILEY: Object to form of the question.

MR. BIERSTEKER: Object to form.

A. (Witness Answers) I know what the phrase means, yes.

Q. (By Mr. Holford) Well, you know cigarette smoking for a long enough period will cause nicotine addiction, right?

MR. RILEY: Object to form.

A. (Witness Answers) I'm not really qualified to answer that.

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Q. (By Mr. Holford) Well, you'll agree there are smokers who are addicted to nicotine?

MR. CRUSE: Object. He just said he wasn't qualified to answer.

MR. HOLFORD: That's a different question.

MR. CRUSE: You're asking him --

MR. BIERSTEKER: Same issue.

A. (Witness Answers) I still would have to say I'm not an authority on the question of whether or not nicotine is an addictive substance.

Q. (By Mr. Holford) Well, whether you're qualified as an expert in the field or not, Doctor, Dr. Hudson, I'm asking as a physician of a great many years, do you know that there are smokers who are addicted to nicotine?

MR. CRUSE: Well, I object to the question. Again, he said he wasn't an expert in that field, and if you're asking him to answer it on the basis of his own personal experience, that's fine, but he's already said he can't do it as --

MR. HOLFORD: Any basis he's got.

MR. RILEY: He told you he doesn't have one, he's not an expert.

A. (Witness Answers) I've always thought

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of it in terms of habituation rather than addiction.

Q. (By Mr. Holford) Have you -- but however, whatever label you put on it, do you know that there are smokers who are compelled in a way to use it?

MR. BIERSTEKER: Object to form of the question.

MR. WALLACE: Who think they are?

MR. BIERSTEKER: Object to form of the question. I don't understand what you mean by "compelled."

Q. (By Mr. Holford) Is there a compulsion with smoking for some smokers, Dr. Hudson?

MR. RILEY: Object to the form.

MR. BIERSTEKER: Same objection.

A. (Witness Answers) I can answer for myself.

Q. (By Mr. Holford) Well, I think you already did that.

A. Yes.

Q. But --

MR. CRUSE: Were you through with your answer? You can go on and answer.

A. (Witness Continues) I was going to say

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if you're still not asking me to answer this in terms of being an expert, then common sense would suggest that people who are trying to quit smoking and can't have a compulsion to smoke.

Q. (By Mr. Holford) Whether you call that habituation or addiction, it means that that use of cigarettes is compulsive with them, right?

MR. RILEY: Object to form of the question.

MR. BIERSTEKER: I join in that objection.

A. (Witness Answers) The words mean something different to me, habituation and addiction, so I wouldn't -- I wouldn't try to make an answer to the question of addiction.

Q. (By Mr. Holford) So are you testifying then that, in your opinion, as a medical doctor, cigarette smoking is not addicting as opposed to habituating?

A. That's the way I've always looked on it, yes.

Q. So you disagree with the Surgeon General of the United States and his 1988 report on nicotine addiction; is that right?

MR. BIERSTEKER: The Doctor has

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already testified he's not expert in this field, he's given you his personal opinion based as a person, not as an expert, and now you're proceeding to cross-examine him as if he were giving expert opinions in this area.

MR. HOLFORD: That's flat wrong.

MR. CRUSE: That's flat right.

Q. (By Mr. Holford) Now, are you disagreeing -- in the opinion you just gave, are you disagreeing with the Surgeon General of the United States in his 1988 report on nicotine addiction?

A. As a person not qualified in addiction, I'm disagreeing with the use of that term.

Q. And, oh, let's check Mr. Biersteker's remarks there, is it your professional opinion as a medical doctor that cigarette smoking is not addicting as opposed to habituating?

MR. RILEY: Asked and answered.

MR. BIERSTEKER: Object to form. It assumes he has a professional opinion as a doctor on the question of addiction.

Q. (By Mr. Holford) If you don't have an opinion on that, tell me.

A. I think I don't.

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Q. So as a professional person, you don't opine whether smoking is addicting or not?

MR. RILEY: Asked and answered.

A. (Witness Answers) No, as a professional person, no.

Q. (By Mr. Holford) Do you have your current CV, sir?

A. Yes.

Q. Thank you.

A. You're welcome.

(Whereupon, Hudson Deposition Exhibit No. 1 was marked for identification by the reporter.)

Q. (By Mr. Holford) Now, what's been marked Exhibit 1, Dr. Hudson, is that your current and up-to-date CV, curriculum vitae?

A. My secretary was in the process of updating this. This is the version she had given me to verify, which I've not yet actually done, but it is the latest version.

Q. So you -- well, when you get the transcript, that will be attached, a copy of that will be attached, you can -- if there's any updating, you can do it then; is that fair?

A. Yes.

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Q. Subject to that updating?

A. Yes, sir.

Q. Is this Exhibit 1 your complete -- is it complete, is it your understanding?

A. It's my understanding that it is, yes.

Q. And is it all true?

A. As far as I know, yes.

Q. Subject to that updating?

A. Yes, sir.

Q. What is your medical specialty?

A. Internal medicine and allergy.

Q. Is the allergy a sub-specialty of internal medicine?

A. Yes, sir.

Q. Do you have any other sub-specialties?

A. No, sir.

Q. This is a very big building we're in, right?

MR. RILEY: Object.

Q. (By Mr. Holford) How much of it is the Cancer Center?

MR. BIERSTEKER: Object to the form of the question, presumes there is one.

A. (Witness Answers) I have never even been in the Cancer Center.

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Q. (By Mr. Holford) That's at the back of the building, right?

A. In the -- on the hospital side; yes, sir.

Q. Is the whole hospital side the Cancer Center?

A. No.

Q. So you've never had anything to do with the Cancer Center?

A. No, sir.

Q. Is that correct?

A. Correct.

Q. So you have treated patients, I believe you told me, as an internist and allergist; is that right?

A. Yes, sir.

Q. Is it fair to say that you have no expertise in other fields of medicine?

MR. BIERSTEKER: Object to the form of the question. I don't know what you mean by "fields of medicine."

Q. (By Mr. Holford) Other specialties?

MR. BIERSTEKER: Do you include the history of medicine one of the fields of medicine?

Q. (By Mr. Holford) Is history of medicine

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considered a field of medicine?

A. By the historians of medicine at least.

Q. What about the doctors who are not historical oriented?

A. It's recognized as a legitimate branch of medicine, yes.

Q. Now, other than as an internist, allergist and medical historian, do you have expertise in any other specialties of medicine?

A. I have what an ordinary practicing physician as of 1970 would have had.

Q. Is 1970 the last date of your treating patients?

A. No, sir; that's when it began tapering off.

Q. How old were you in 1970?

A. 26 from '70 is 34 -- no, 44. 1926 from 1970 is 44, yes.

Q. Was there a reason it started tapering off then?

A. Yes.

Q. What was that?

A. I was shifting my interests and energy into the history and ethics of medicine.

Q. But you have no expertise in the public

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health field; is that right?

A. That's correct.

Q. You have no expertise in epidemiology; is that right?

A. I would answer it, I suppose, the way I did the earlier question, that I had no more than an average practicing physician in internal medicine would have had as of 1970.

Q. And such a physician at that time would know about epidemiology, is what you're saying?

A. Yes, sir.

Q. And is that because such a physician would be recognizing epidemiology as a valid tool for medical and scientific investigation?

A. Yes, sir.

Q. Now, speaking of -- do we call it the field of medical history?

A. Yes, sir.

Q. What are the criteria for valid research in the field of medical history?

MR. RILEY: Object to the form of the question.

MR. BIERSTEKER: Yeah, I do too. I don't know what you mean.

A. (By the Witness) I'm not sure I do

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understand exactly how you're asking me, what you're asking.

Q. (By Mr. Holford) Okay. Thank you, sir. Do you -- as a medical historian, do you do research?

A. Yes, sir.

Q. Research in medical history, in other words?

A. Yes, sir.

Q. That's different than research in a scientific medical area, right?

A. In many ways.

Q. I mean, you have to understand medical science, but you are not investigating any question in medical science in doing research in medical history; is that right?

MR. RILEY: Object to form of the question.

MR. BIERSTEKER: Object to form of the question. I'm not sure I understand what you mean.

A. (Witness Answers) No. I would answer no to that.

Q. (By Mr. Holford) All right. Well, are you saying that to do research in medical history a

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person doesn't have to have an understanding of medical science?

A. No.

Q. That's not what you're saying?

A. I must have misunderstood the question before this.

Q. Okay. I'll ask it this way, for a person to do research in medical history, they must understand the medical science in the area they're researching, but they are in fact not researching into a question of medical science, they're rather looking at the history in that area; is that right?

A. No, I can't agree with all of that.

Q. All right. Is the field of medical history a -- does it have a methodology like the scientific method in scientific fields?

A. They share many characteristics, but they are not identical.

Q. What are those characteristics in the field of medical history?

A. Gathering data, interpreting data, analyzing data logically, arriving at conclusions based on their analysis.

Q. Is that it?

A. Those four certainly. I could probably

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think of others given a little time.

Q. Those would be the primary ones, though, right?

A. There's actually utilization of scientific data and methods itself, such as archaeology, demographics.

Q. Epidemiology?

A. Epidemiology; yes, sir.

Q. And you look at in vitro studies?

A. There is certainly research into clinical medicine; yes, sir.

Q. But, I mean, you're doing research in medical history -- in addition to what we just named, you also look at articles in history on in vitro studies?

A. Yes.

Q. And you also look at articles and history on animal studies?

A. Yes, sir.

Q. Especially in the field of cancer, right?

A. Yes, sir.

Q. Now, in a research like I believe you've conducted in this case, you have done that, right, you've applied this method to this case?

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A. Yes, sir.

Q. And, now, the data you mention are essentially articles on medical scientific matters; is that right?

A. The data is the information contained in scientific articles largely, yes.

Q. But your research can't really go beyond the published articles?

MR. BIERSTEKER: Object to the form of the question.

Q. (By Mr. Holford) Is that right?

MR. BIERSTEKER: I don't know what you mean by "go beyond the published articles."

Q. (By Mr. Holford) I'll rephrase it. In your -- let's talk about in this case, in your research in this case, did you look at anything other than published articles?

A. Yes.

Q. Books?

A. Yes, sir.

Q. Anything else?

A. That would be it largely, yes.

Q. How many books did you look at?

A. I couldn't begin to give you a reasonable figure for that.

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Q. Are you speaking not just of your recent time in this case, but you're going back in your entire history when you say you looked at books?

MR. RILEY: Object to form of the question.

MR. BIERSTEKER: Object to form of the question. What do you mean, history of the examination of any subject, history of the examination of lung cancer, history of the examination of larynx cancer?

A. (By the Witness) Yes, it would help if you could narrow the question a bit.

Q. (By Mr. Holford) To the extent you looked at any books in your research in this case, did you do that looking any time before you were first involved in this case?

MR. RILEY: Object to the form of the question.

MR. BIERSTEKER: I don't understand what you mean, I object.

A. (By the Witness) I'm still vague about it.

Q. (By Mr. Holford) All right. When you say you looked at books in this case --

A. Yes, sir.

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Q. -- and indicated they were numerous; is that right?

A. I could say probably between 25 and 75.

Q. For the purposes of the work you did in this case, from when are you drawing your information from these books, when did you look at them that you remembered when you were doing your work in this case?

MR. BIERSTEKER: Object to form of the question. It's compound and also vague.

MR. CRUSE: Very vague.

MR. RILEY: Very ambiguous.

Q. (By Mr. Holford) When were you contacted in this case?

A. I believe it was in January of 1993.

Q. However many books it's been, 50, 75, or whatever, did you look -- for purposes of this case did you look at those books all after this date you just mentioned?

A. I looked at books related to the general subject prior to this case as well. I'm not sure I can sort out in my mind where the break point was.

Q. So that in addition to going back and finding articles in your work in this case, you also applied to your work in this case, your

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learning from books for as long as you've been practicing medicine; is that right?

A. I would think in ways that might be hard to identify, that's probably true, yes.

Q. Do you have a list of these books you looked at?

A. No, sir.

Q. Now, aside from general recalling from books in your medical study, did you -- after you were contacted in this case, did you pull out particular books to refer to and did you do so?

A. Yes.

Q. How many are those?

A. I'll say 25, if you understand that this is a very tentative answer on my part because I did not keep a record.

Q. Well, is your looking at those approximately 25 books since you were contacted in this case entering into the opinions you have in this case?

A. Yes.

Q. Are those 25 books, or approximately 25 books, all in your office?

A. Most of them would be in my home library.

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Q. Where did you get the others?

A. From the Medical Library here, and from the History of Medicine Library here.

Q. Well, I notice you have some index cards here, substantial number; are those notes on your opinions in this case?

A. They are notes on the articles and books that I consulted.

Q. So can we know that to the extent that you consulted any book in forming your opinions in this case, that's noted on those cards?

A. No, sir.

MR. RILEY: Asked and answered.

Q. (By Mr. Holford) Can we know that to the extent that you looked at any of the approximately 25 books after you were contacted in this case, that that is reflected in those cards?

A. No, sir.

Q. Is anything that you intend to testify about in this case, any conclusion or opinion, reflected in those cards?

MR. BIERSTEKER: Object to form of the question.

A. (Witness Answers) Depends upon what I'm asked, I suppose.

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Q. (By Mr. Holford) As far as you presently know?

A. I can imagine questions which might relate to books I looked at that might be reflecting in these cards, yes.

Q. Well, I'm going aside from whether it's articles or books or -- Dr. Hudson, I'm asking if we look at those cards, can we see the reference to the facts, opinions, conclusions that you presently expect to give at the trial of this case?

MR. RILEY: Asked and answered. He already answered that question.

MR. BIERSTEKER: Right. I think --

MR. CRUSE: He said he doesn't know what he'll be asked. He's said that twice.

MR. BIERSTEKER: He's also said the notes in the file reflect his notes from the, from many of the articles that he has reviewed and the books he has reviewed.

MR. WALLACE: They're not notes of his opinions.

MR. BIERSTEKER: They're not notes of his opinions and conclusions, so I object to form also.

Q. (By Mr. Holford) Is Mr. Biersteker's

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comment correct?

THE WITNESS: Could you say it once again, please?

MR. BIERSTEKER: My comment was that the notes reflect notes that you took from many of the articles, possibly books that you read, but that they don't purport to summarize your opinions and conclusions.

THE WITNESS: Yes, that's exactly right.

Q. (By Mr. Holford) So your conclusions and opinions aren't in those cards?

A. No, sir.

Q. Just the data?

A. These are largely just the data.

Q. How many cards have you got there, do you know approximately?

A. No, sir; I don't. This is also --

Q. That tin box has got more?

A. Yes, sir.

Q. I see.

A. But there's duplications. There's overlap in some of them, so --

Q. So you've got a -- as far as index, large index cards go, you've got a stack there

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about one to two inches high on the desk, then you've got two plastic smaller file boxes, and you've got one larger tin box full of those cards, right?

A. Yes, sir.

MR. BIERSTEKER: I'm sorry. Doug, can we take a short break?

(Recess taken.)

Q. (By Mr. Holford) Dr. Hudson, this field of medical history, and doing research by gathering data, interpreting data, analyzing data and making conclusions from your analysis of that data, does a person have to be a medical doctor to do that work?

A. No, sir.

Q. A person trained in epidemiology and public health could do that work?

A. Theoretically, yes.

Q. Actually, you said theoretically?

A. Anyone can do it. It's a question of doing it well, yes.

Q. Well, my question then is, we can't talk about equal -- that depends entirely on people, the persons involved and their background and everything like that?

A. Yeah.

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Q. But speaking in terms of professional qualification to do the work, my question is, can a person trained in epidemiology and public health be as professionally qualified to do the work as a medical doctor?

MR. RILEY: Object to the form of the question. What work? To go back and look up articles? Is that your question?

A. (By the Witness) To do the work as a medical doctor, you say?

Q. (By Mr. Holford) Yes, sir. The work in medical history of gathering the data, interpreting the data, analyzing the data and concluding on that analysis?

A. Based on the --

MR. WALLACE: That's historical methodology you were talking about before, Mr. Holford.

MR. HOLFORD: The record is clear.

A. (By the Witness) You're asking between epidemiologists and medical doctor?

Q. (By Mr. Holford) Epidemiologists and a public health trained person versus a medical doctor?

A. Many of them are medical doctors.

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Q. I understand.

A. Yeah.

Q. Regarding research in medical history by the method of gathering data, interpreting the data, analyzing the data and concluding on that analysis of the data, is a person degreed in epidemiology and public health as professionally qualified to do that kind of work as is a medical doctor?

MR. RILEY: This is asked and answered. He's already testified to the question --

A. (Witness Answers) Assuming no --

MR. RILEY: I just want to finish my objection.

THE WITNESS: I'm sorry.

MR. RILEY: 'Cause she can't take us both down at the same time. The objection is, I think it's asked and answered. He's already testified it's a question of how well you do the job.

Q. (By Mr. Holford) Go ahead, sir.

A. Assuming that they are working in an area in which they have historical expertise, there would be no difference between an epidemiologist

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and a medical doctor.

Q. Does epidemiology necessarily involve a historical effort?

MR. BIERSTEKER: I'm sorry, read the question back.

(Whereupon, the requested portion of the record was read by the Reporter.)

MR. BIERSTEKER: Object to the form. I don't know what you mean by "historical effort."

Q. (By Mr. Holford) Well, if he doesn't understand it, he'll tell me.

A. All of scientific investigation involves the utilization of some historical investigation, yes.

Q. Have you already described today the instance with Arnold & Porter, and then this case those instances in which you've done research in medical history concerning smoking?

A. Yes.

Q. Now, tell me again, I'm not sure, you said '92 or '93 -- when were you first contacted in this case?

A. January 6, 1993 was the first meeting I had.

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Q. With Mr. Garnick?

A. No, with Mr. Biersteker.

MR. BIERSTEKER: You said on this case.

Q. (By Mr. Holford) I'm sorry, yes. That was my next question. It was Mr. Biersteker that contacted you?

A. Yes.

Q. Mr. Biersteker came here to meet with you?

A. Yes.

Q. Had there been any substantial talk before that, other than saying I want to talk to you about a case?

A. No.

Q. Is that correct, that's what he said essentially?

A. I am not really quite certain who contacted me first on this case.

Q. That was by telephone as opposed to, say, letter?

A. Yes, and set up the meeting.

Q. Well, did somebody ask you first if you wanted to consider another case?

A. Yes.

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Q. And that was a call from someone at Jones-Day?

A. No.

Q. Who was it?

A. That was from Mr. Garnick.

Q. Okay. At this time in January of '93 were you still working on the case with Mr. Garnick?

A. No.

Q. So it was Mr. Garnick that first contacted you and said, Dr. Hudson, do you want to work on another case?

A. I can't recall whether he called or whether Mr. Biersteker called and said that he, my name had come from Mr. Garnick. It was one of those two.

Q. All right. And that was sometime shortly before January 6, 1993?

A. Yes, sir.

Q. But the January 6, 1993 meeting was with Mr. Biersteker?

A. That's correct.

Q. How long did that meeting last?

A. I would have to say probably about three hours.

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Q. In that meeting did you go over what you had done in the case with Mr. Garnick?

A. Some of it, yes.

Q. In that meeting with Mr. Biersteker, with the advantage of what you'd already done in the case with Mr. Garnick, had you already formed the opinions you have in this case in that, during and right after that meeting?

A. No.

Q. How did you and Mr. Biersteker leave it, what were you to do?

A. In effect, start all over with the larynx and follow a similar format -- this was my choice -- that I had followed in doing the lung work earlier.

Q. You mean it was your choice as to what method to follow?

A. Yes, originally, and in the second instance as well, yes.

Q. So in the case with Arnold & Porter, did you restrict your data gathering in that case to lung cancer?

A. For the most part.

Q. You didn't look at other diseases, I mean?

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A. It was inevitable that I would encounter other diseases in looking up the lung issue.

Q. But your by far primary focus was on the lung cancer?

A. My interest was on the lung cancer.

Q. That is, the question is what was known when about lung cancer in the scientific community?

A. Yes, essentially, yes.

Q. And in this case your inquiry, as given by Mr. Biersteker and Mr. Garnick, was what was known when by the scientific community concerning larynx cancer?

MR. RILEY: Object to the form.

MR. BIERSTEKER: Object to form. Assumes Mr. Garnick had anything to do with what he did for this case.

Q. (By Mr. Holford) Okay. Is that right?

A. I didn't hear.

Q. Mr. Garnick didn't have anything to do with what you did in this case; is that right?

A. Beyond introducing me to Mr. Biersteker.

Q. That's correct?

A. That's correct.

Q. So all of your communications and relating of opinions has been with Mr. Biersteker?

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MR. BIERSTEKER: I object to the form of the question.

Q. (By Mr. Holford) There were some other lawyers at a meeting; what can you say about that?

MR. RILEY: Object to form.

MR. BIERSTEKER: Object.

MR. CRUSE: You mean what kind of weather was that?

A. (Witness Answers) I was always contacted by Mr. Biersteker and gave my opinions directly to him in the meetings we had here.

Q. (By Mr. Holford) But you mentioned -- I'm sorry, that was in the other case, okay.

So in this case all of your communicating has been done with Mr. Biersteker in meetings here?

A. In arranging the meetings, yes, and meeting with him.

Q. But, I mean, you haven't even done any substantial communication by telephone back to Jones-Day in this case; is that right?

MR. BIERSTEKER: Object to form of the question. It's vague as to what "substantial" means. Did he ever have telephone conversations with me, is that what you're asking? I don't

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understand what you mean.

A. (Witness Answers) Yeah, I'm sorry, I didn't understand. No, we have conferred, Mr. Biersteker and I have conferred by telephone more than once.

Q. (By Mr. Holford) So including the meeting on January 6, 1993, how many times do you believe you've communicated with Mr. Biersteker on this case?

A. Communicated with him or met with him?

Q. Yes, sir. Well, first communicated with him?

A. Perhaps 10 or 12.

Q. And met with him?

A. Five, counting today.

Q. Did you ever give any opinions -- back up.

And Mr. Biersteker has been the only lawyer you've communicated with concerning this case that you can recall; isn't that right?

A. No.

Q. Who else have you communicated with?

A. Mr. Garnick.

Q. Well, I mean -- okay, you're correct, and I will try to rephrase it.

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Other than Mr. Garnick's introduction of you in this case, has the only lawyer that you've communicated with in this case been Mr. Biersteker?

A. No, Mr. Garnick was here on a subsequent visit.

Q. All right. One of the five meetings you mentioned?

A. Yes, sir.

Q. Now, has all of your relating of your conclusions and opinions in this case to Mr. Biersteker and/or Mr. Garnick been in one or more of the five meetings here?

MR. BIERSTEKER: I object to the form. May I make a suggestion? Why don't you just ask him whether we had substantive conversations on the telephone. I think that's causing some confusion.

Q. (By Mr. Holford) Did you have substantive communications on the telephone?

A. Yes.

Q. Did that include giving opinions?

A. I would say almost certainly, yes.

Q. Okay. Do you know when this case is scheduled for trial?

A. It's my understanding it's January of

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1995. I don't know more accurately than that.

Q. I don't think any of us do. Do you expect to testify live at the trial of this case in Houston?

A. That's always been my understanding.

Q. But have you -- has Mr. Biersteker, or one of the lawyers, told you that this case could go like the other one with Arnold & Porter, and you end up not having to testify?

A. Yes.

Q. But if the case reaches trial, and plaintiffs put on their case, and it's defendants' turn, do you expect to testify then?

A. I'm ready to if I'm asked to; yes, sir.

Q. Now, at this time, on March 14, 1994, have you seen everything that you consider necessary to support the opinions that you expect to give at the trial of this case?

A. I believe and hope so.

MR. HOLFORD: Let's mark this as Exhibit 2.

(Whereupon, Hudson Deposition Exhibit No. 2 was marked for identification by the reporter.)

Q. (By Mr. Holford) Dr. Hudson, I'm going

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to show you what has been marked Exhibit 2 to this deposition, just review it to yourself, if you would, sir, then I'll ask you a question.

A. Except for one typo; yes, sir.

Q. You've seen that before?

A. Yes, sir.

Q. Where is the typo?

A. It says "long" cancer instead of "lung" cancer.

Q. Do you know who drafted this Exhibit 2?

A. I presumed all along that Mr. Biersteker did.

Q. That he and his office, in other words?

A. I presume that.

Q. Other than the first page of this, that's the interrogatory to which the other three pages are answered; do you understand that?

In fact, you can hold on to that one. Do you know what an interrogatory is?

A. No, sir.

Q. Okay.

MR. WALLACE: You'll be a lawyer here too by the time we finish here.

THE WITNESS: I doubt that.

Q. (By Mr. Holford) Could you tell when

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you reviewed it that the last three pages were responsive to the first page, the question on the first page?

A. Yes, I believe I understand that now.

Q. And do the last three, were the last three pages reviewed with you -- I'm going to start over.

Was the substance of the last three pages reviewed with you before this response was given?

A. Only the pages marked 2 and 3. Page 10 I don't recall that we ever talked about.

Q. All right. So that's the second and third pages of Exhibit 2 that were reviewed with you?

A. Yes, sir.

Q. Do the second and third pages of Exhibit 2 state all of the opinions that you presently expect to state at the trial of this case?

A. The important ones; yes, sir.

Q. Any other ones will be incidental to your testimony at trial?

A. Yes.

Q. Have any other witnesses in this case been discussed with you, any deposition testimony

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or anything?

A. Yes, sir.

Q. Who would that be?

A. Ms. Whelan, or Dr. Whelan.

Q. Have you reviewed her deposition?

A. Yes, sir.

Q. Have you reviewed --

MR. HOLFORD: Well, there's no question yet.

MR. BIERSTEKER: No, it was the prior one. I may be a little late, but you said depositions or deposition?

MR. HOLFORD: I don't know. Does it make any --

A. (By the Witness) I understood you to say singular, that's what I'm answering first to.

Q. (By Mr. Holford) That's fine. But I guess the confusion is, was there more than one volume of what you looked at?

A. No.

Q. Oh, only one volume?

A. Yes -- well, no. No, there were two, I guess.

Q. Two, and maybe three; do you have them there?

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A. Yes, sir.

Q. Could I see them, please. I'm going to include, Dr. Hudson, any works of Dr. Whelan, whether deposition or statements of opinions, so go ahead, I think you've got some other ones there, go ahead and include those?

A. Books?

Q. Yes, sir; books, anything to do with Dr. Elizabeth Whelan?

A. That's it.

Q. Okay. What is that one there that --

MR. WALLACE: It's the interrogatory answer.

MR. HOLFORD: Okay. I see.

Q. (By Mr. Holford) Well, do we have -- have you reviewed all of these that you just handed me here, Dr. Hudson?

A. Yes.

Q. This one in the folder marked E. Whelan book Preventing Cancer, is that a copy of that book?

A. That's what I asked for, and assumed I received, yes. I did not have the book in my hand.

Q. No, sir, but -- okay, but you did review this stack of copies here that's entitled,

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Preventing Cancer?

A. Portion of it.

Q. It says on the top page, Tobacco chapter noted?

A. Yes, sir.

Q. So you have more than the tobacco chapter here?

A. Yes, sir.

Q. As you reviewed it did it seem like a whole book, copy of a whole book?

A. I don't remember.

Q. Go ahead and look, sir.

A. Yes, sir. Yes, sir; it does appear to be an entire book.

Q. And then we have a copy of some documents here titled, Declaration of Elizabeth M. Whelan, Doctor of Science, in Opposition to Defendants' Motions for Summary Judgment, right?

A. Yes, sir.

Q. And did that look to be Dr. Whelan's whole affidavit on, or declaration on the state of the art?

MR. BIERSTEKER: Object to --

A. (Witness Answers) I really couldn't answer that.

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MR. CRUSE: No way he can know that.

A. (Witness Continues) I wouldn't know what comprised a pleading the way I would in finding all of the pages of a book including an index.

Q. (By Mr. Holford) All right. That's fine. I counted 12 pages on this declaration of Dr. Whelan, there's a last page which doesn't appear to have anything to do with it, but those -- can you agree that's 12 pages, plus one?

MR. RILEY: Is that 13?

MR. CRUSE: Maybe not in Kansas.

A. (Witness Answers) Must have mis-counted.

Q. (By Mr. Holford) When I say 12, I'm not counting the last page.

A. That seems to be right; yes, sir.

Q. And then you've got two, look like condensed form of deposition; is that what these two are?

A. It was my understanding that's the deposition.

Q. All right. Fine. They're marked Whelan I and Whelan II; Whelan I completed 24 January,

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1994, and Whelan II -- no, back up.

Volume I was given on December 16, 1993, and Volume II on December 17, 1993; is that what they show?

A. Yes, sir; that's what it says.

Q. And the last thing you handed me here was -- is this a copy of Dr. Whelan's book, "A Smoking Gun: How the Tobacco Industry Gets Away with Murder"? Is that what it appears to be to you?

A. That's what I understood I was getting, and assuming there are no missing pages; yes, sir, that's all of it.

Q. Are these items we've just listed, are they all that you have on Dr. Elizabeth Whelan?

A. Yes, sir.

Q. Now, Dr. Hudson, is it fair to say that in applying the historical method in this case, what you in fact did was go back through indices and find articles relating to larynx cancer and cull your knowledge from books that you'd seen before that you looked up now and apply what you found through analysis to come to the conclusions and opinions that you did?

MR. BIERSTEKER: Object to the form

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of the question. I'm just asking, did you intentionally omit lung cancer as well?

MR. HOLFORD: I framed my question on the basis of Dr. Hudson's answers.

MR. CRUSE: It's also a compound question, as you often object. I'll make that objection too.

MR. WALLACE: Wasn't that nefarious?

MR. CRUSE: I can't get to that.

A. (By the Witness) Are you asking me again if I used the historical method in my study of cancer of the larynx?

Q. (By Mr. Holford) I'm trying to get more particular, Dr. Hudson. I'm saying, in applying the medical history method to this case, in fact what you did was to search the history of larynx cancer through medical indices to find articles on the subject, and also to cull your knowledge from books you'd read either in the past or recently and then apply what you found through analysis to form your conclusions in this case?

MR. BIERSTEKER: I object on several grounds. One is the question is vague in the sense that it's not clear whether you're asking him

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whether that's all he did or whether that was part of what he did, and it's also compound.

Q. (By Mr. Holford) I mean, that's all you did; is that correct?

A. No.

Q. All right. When you got your charge of what to do in this case, Dr. Hudson --

MR. RILEY: Object to the form. He didn't get a charge of what to do.

Q. (By Mr. Holford) I'll start again then. When you started your work in this case, Dr. Hudson, how did you find the articles concerning laryngeal cancer?

A. I utilized the sources one would normally use in such a search, such as going through the Index Medicus; going through the ear, nose and throat journals for editorials that might not have been picked up in Index Medicus; using the Harris bibliography that he put together as part of his report; using the bibliography from the Surgeon General's 1964 report; plus all the branching articles that come out of the various articles that I accumulated in each of these processes.

Q. After you mentioned the Index Medicus you say, you mentioned some journals?

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A. I went through the ear, nose and throat journals particularly, in addition to Index Medicus, on the off chance that there might have been editorial opinions that didn't have titles that might have been picked up in Index Medicus.

Q. What journals did you look at?

A. I'm going to have to have some help here because the journals of otorhinolaryngology changed and interchanged their names repeatedly during the periods I'm talking about. There was journal of all three, there was journals of otology and rhinology; there was journals of rhinology and laryngology; there was Laryngoscope; there was a whole variety of these, and at times the names are so similar that I have, I would have trouble just itemizing them for you off the top of my head.

Q. I definitely understand, Dr. Hudson. But another question, you're not a otolaryngologist, or have any expertise in otolaryngology, right?

A. No more than the average physician would have who took a rotation in it in medical school and did some of it in his post-graduate training, correct.

Q. That's what you did?

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A. Yes.

Q. Was there one journal in this field or more than one?

A. Many.

Q. You're saying that from the -- what years did you search?

A. I ended with 1964 in a formal fashion. I have articles going back into the late 19th century and early 20th century, so I didn't have a beginning fixed date. It was -- I would simply have to look up the earliest article I have to answer that, but it doesn't mean I didn't search before then for others that might be appropriate.

Q. Did you limit your search -- back up.

Did you limit what you copied during your search to articles that showed the employ of what at the time was a valid scientific method?

MR. BIERSTEKER: Object to the form of the question. I'm not sure what you mean by "valid scientific method" or its "employ."

Q. (By Mr. Holford) Let me rephrase that. The articles don't employ it.

Dr. Hudson, in selecting articles for copying in your search -- I better back up again.

You only copied certain of the articles

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that you saw -- that you saw and read in your search, right?

A. Well, I couldn't have copied without seeing them. I'm not sure --

Q. But you saw many more articles than you actually copied, right?

A. Yes.

Q. And you only copied the ones that were interesting to you, right?

A. The ones that I thought might be.

Q. Might be. All right. And did you copy those articles that disclosed work that used a valid scientific method at the time of the article?

MR. BIERSTEKER: Do you mean -- I object to the form in that it's ambiguous as to do you mean as to whether -- do you mean are those the only articles he copied, or are some of the articles that he copied within that scope?

MR. HOLFORD: Well, I'm going to state on the record now that on those rare occasions when in other depositions I have said anything beyond I object, ambiguous, vague, or the statement of some grounds and editorialized, as you just did, Mr. Biersteker, I think the records of those will show that I received voracious comments

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from defense counsel, so I haven't said anything about the numerous occasions of that in this deposition up to now, but I'm making a record of noticing of it right now.

MR. BIERSTEKER: That's fine. I also have an obligation for the record to make sure it's clear. I'm trying to help you out.

MR. CRUSE: I object to the question. You're implying that every one of the articles that he looked at used that method.

MR. HOLFORD: You're doing it right now, Mr. Cruse. You're doing it right now.

MR. CRUSE: That's why I'm objecting to the question.

MR. HOLFORD: Well, you know what you're doing, Mr. Cruse.

MR. BIERSTEKER: Why don't you state the question in a clear way and we won't have objection.

MR. WALLACE: Just ask him what criteria he used in deciding to copy articles, if any. Maybe we can go at it that way.

MR. HOLFORD: You'll get a chance to question, Mr. Wallace, as you know, and I think your record -- your remark is as much a side bar

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and as much inappropriate as the remarks I'm making note of here right now.

MR. BIERSTEKER: Go ahead.

Q. (By Mr. Holford) Dr. Hudson, in copying the articles which you did, does your decision to copy those articles reflect that the work described in those articles that you copied, is that work based on a valid scientific method at the time or as it was known at the time that the articles were written?

MR. RILEY: I object to the form of the question. In addition to your grounds that have been previously stated, I think it's overly broad. I don't see how it can possibly be answered.

A. (By the Witness) I go ahead?

Q. (By Mr. Holford) Yes, sir.

MR. RILEY: Now it's your turn.

A. (Witness Answers) The answer is no.

Q. (By Mr. Holford) So prior to 1950, or speaking prior to 1950, Dr. Hudson, are some of the articles that you copied based on work done pursuant to what was at the time a valid scientific method?

MR. BIERSTEKER: Object to the

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form.

A. (By the Witness) May I ask you a question about this, or --

Q. (By Mr. Holford) It's not the form -- if my question isn't clear to you --

A. Because you've asked two different questions and making it sound as though they're the same. You asked me first why I copied, in effect why I chose to copy the articles I chose. Now I think you're asking me something different, if I understand it, whether or not the articles, some of the articles I chose had material in them that was by those, by the standards of that day considered scientifically acceptable or --

Q. You don't understand my question?

A. Not exactly, no.

Q. Okay. Now, your opinions as stated in Exhibit 2 differ from those stated in the materials from Dr. Elizabeth Whelan, right?

A. Yes, in certain regards they do.

Q. Now, other than testifying to what you expect to that's shown in Exhibit 2, in Pages 2 and 3 of that exhibit, do you have any present expectation to make any comments directed to what Dr. Whelan has stated in these materials you have?

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MR. CRUSE: I object to the form of that question. She's been deposed over four different days, and there's no way that you could properly try and limit him to know everything that she has in those depositions.

MR. HOLFORD: I just asked him about -- it's not improper, Mr. Cruse --

MR. CRUSE: It is in my mind.

MR. HOLFORD: -- to ask the witness about what is in front of him. That's all I asked him was what was in front of him.

MR. CRUSE: You said what Dr. Whelan is going to say.

MR. HOLFORD: No, not what -- what she has said in the materials that Dr. Hudson had and presented here today.

MR. RILEY: I have another objection. We've already been over this, and he's already told you he doesn't know what questions he's going to be asked at trial.

MR. HOLFORD: That's another one of those remarks I made record of earlier.

Q. (By Mr. Holford) Go ahead.

A. Could you repeat it?

Q. Yes, sir. Other than testifying to the

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opinions stated on the second and third pages of Exhibit 2, which are in conflict with what is stated by Dr. Whelan in these materials that you provided here today, other than stating your own opinions do you have any expectation of making any other remarks about what Dr. Whelan has said?

MR. RILEY: Same objection.

MR. BIERSTEKER: Object to form as well.

A. (Witness Answers) I don't know how I could be expected to respond without knowing what you might ask me then, or someone, or that the other lawyers might ask me.

Q. (By Mr. Holford) Let's do it this way, Dr. Hudson.

You reviewed these materials that you had from Dr. Whelan that I've described on the record here today, right?

A. Yes.

Q. You know what they say, right?

A. Well, I went over them once and then went back over them twice. I'm not certain I could tell you everything they say.

Q. And all I want to know is, as you're sitting there right now, knowing what's on Pages 2

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and 3 of Exhibit 2 to be what you expect to testify at trial, as far as you know today, do you see any additional testimony that you might have to react or to comment on what Dr. Whelan has stated in these materials that we have before us today?

MR. BIERSTEKER: I object to form of the question.

MR. RILEY: Same objection.

A. (Witness Answers) Seems to me it would depend on how she amplifies this in her own questioning and examination. I might be asked things that would respond to something that she said that's different from what's in the deposition, is that --

Q. (By Mr. Holford) That's unknown, Dr. Hudson, that's why I asked you to limit your consideration right now to what is stated by Dr. Whelan in these materials that you already have, okay?

Just considering what Dr. Elizabeth Whelan has said in the materials that you already have, which have been listed on the record here today, do you have any expectation to comment about what she has said other than to state the opinions stated on Page 2 and 3 of Exhibit 2 that you plan

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to do?

MR. RILEY: Same objections to the form.

Q. (By Mr. Holford) In disagreement with her, in other words?

MR. CRUSE: He's referring to documents, and you're entitled to look through those documents that he's referring to, if you need to. We can spend two, three hours. You can read them over again if you need to do that.

MR. HOLFORD: He can again.

MR. WALLACE: 285 page book, for starters.

Q. (By Mr. Holford) Okay. Do you have an answer?

A. I'm still so confused. I don't feel that I should try to answer as it's stated.

Q. All right. You have a Master's of Arts in the History of Medicine, right?

A. Yes, sir.

Q. And you obtained that in -- well, 1966 to what year?

A. The work was done during the years 1963 and '64, and the thesis was approved in -- the essay was approved and the degree awarded in 1966.

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Q. Is it fair to say, Dr. Hudson, as far as you know now, that your expert testimony and opinions based on that, that you expect to give at trial, will be limited to what is stated in Pages 2 and 3 of Exhibit 2, and anything you might have to say about Dr. Beth Whelan's testimony?

A. I have no idea what other witnesses might be called and what they might say, and would presume that I could be asked to respond to anything, but I don't know if that's the way the trial works or not.

Q. If Dr. Beth Whelan is the only witness of plaintiffs on the state of the art field, do you expect that your comments on other witnesses would be limited to Dr. Beth Whelan?

A. If I may assume that no other witness will be asked historical questions.

Q. Then the answer is yes?

A. Then I would presume yes.

Q. Okay. And if any testimony concerning medical history and state of the art comes out of any other witness at trial, you would expect to testify about that too, right?

A. If that's the way it is run. I don't really know.

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Q. But I'm just saying, if that happens, then you expect to talk about that witness testimony also?

A. I might.

Q. But your testimony at trial would be limited as far as commenting on other witness' testimony to people who talk about medical history and state of the art?

A. As far as I can see, yes, if I understand you correctly.

Q. Well, as far as you have expertise to offer at the trial, isn't that so?

A. It's on the historical aspects of it, yes.

Q. Now, in doing your work for your Master's of Arts in medical history, Dr. Hudson, did you study smoking and disease?

A. No, sir.

Q. Did you study nicotine addiction?

A. No, sir.

Q. Did you study nicotine habituation, as you call it?

A. No, sir.

Q. Did you do any study in cancer?

MR. BIERSTEKER: When? Object to

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form.

A. (Witness Answers) No, sir.

Q. (By Mr. Holford) Well, during your work on your Master's of Arts in medical history, did you do any work concerning cancer?

A. Not explicitly.

Q. Was your work in medical history for your Master's of Arts limited to any particular field of medicine?

A. No.

Q. Was it limited to the study of diseases?

A. No.

(Whereupon, Hudson Deposition Exhibit No. 3 was marked for identification by the reporter.)

Q. (By Mr. Holford) Now I'll show you what's been marked Exhibit 3, Dr. Hudson. Have you seen that before?

A. Yes. I believe this is the same thing I received a fax of.

Q. When did you receive that fax? I mean, do you have the fax?

A. Yes, sir. I have the protective order signed. I don't have when I received -- this is not the same thing, excuse me.

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Q. Well, that's all right. If you can just remember generally, was it within the last week, or --

A. Here it is.

Q. You can be exact then. When was that?

A. March 7.

Q. All right. So between March 7 and now, have you endeavored to find what you could that you had in your possession, custody or control in response to that?

A. Yes, sir.

Q. Dr. Hudson, when you were going back and searching journals of otolaryngology and otorhinolaryngology or whatever, did you find any editorials that were, that you copied?

A. It was surprisingly barren. No, I got one editorial up to 1964, and that is all I found in the way of editorials.

Q. Do you remember about what year that was? I mean, roughly, was it after 1950, for instance?

A. Yes. It would have been dated about the time they held the hearings on advertising. It was -- I believe it was soon after that.

Q. 1970?

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A. Yes.

Q. I thought you said '64?

A. No, my editorials I went beyond that; that's true.

Q. That's all right, Dr. Hudson, I don't need that any more exactly.

So your search of materials particularly back before nineteen -- start over. Your search of journal articles -- start over.

Your search of articles from before 1953 was limited to search on the Index Medicus; is that right?

MR. RILEY: Mis-characterizes his testimony.

Q. (By Mr. Holford) As to what you found as to your finding anything, I'm excluding --

A. No.

MR. RILEY: I think that mis-characterizes his testimony.

MR. BIERSTEKER: Whole laundry list of things he did.

Q. (By Mr. Holford) Okay. Before 1953 -- all right, here it is, as far as what you copied as a result -- that's not going to read right.

Before 1953, you copied only from

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articles that you found as a result of search through the Index Medicus, the Dr. Jeffrey Harris bibliographies, and the 1964 Surgeon General's report?

A. No.

MR. RILEY: I believe that mis-characterizes the testimony.

Q. (By Mr. Holford) What else?

A. Every article that I copied that had a bibliography was then perused for references in the bibliography antedating that article that I thought might have some value or might be of interest, and those might have been copied also.

Q. But you don't recall whether you copied any as a result of that type search?

A. Oh, I'm certain I did, requested -- yes, either copied or requested Mr. Biersteker to provide them for me.

Q. So when you requested any journal or any copies of journals, did you do that through Mr. Biersteker?

A. Yes, sir.

Q. You didn't do your work in the Medical Library here?

A. Oh, no. I'm sorry. I did most of it on

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Stanford Research Institute Tobacco Industry Documents. http://www.tobaccodocuments.ucsf.edu/docs/jthl0001

my own. There were times when I wanted a translation or a certain article that I did not have easy access to in which I would then request from Mr. Biersteker if he could provide it.

Q. Speaking of that, Dr. Hudson, you didn't limit your search to English language articles, right?

A. That's right.

Q. If it was in the Index Medicus, or in any of these bibliographies or annotations of articles, you got them whatever language they were in, right, if they looked interesting, I mean?

A. I do have a number of -- did get a number of foreign language articles. I can't say that every article with the key words in it in foreign languages was requested. I just can't remember that for sure.

Q. But if the article looked interesting according to your key words, it didn't matter what language it was in?

A. No.

Q. You would request it, right?

A. Might, yes.

Q. Or might, all right. Okay. Now, what were your key words?

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A. They were smoking, cigarettes, tobacco, cancer of the larynx, cancer of the pharynx, tumors of the pharynx or larynx. I believe that's essentially it.

Q. Okay. Why did you include the pharynx?

A. Because I had learned from reading articles on the subject that there was a lot of confusion on the part of people writing these articles as to terminology, that they frequently mixed pharynx and larynx together, that they were often unable to decide whether the tumor had originated in the pharynx and spread to the larynx, or vice versa; that there was really a very difficult amount of confusion in the terminology in the literature itself, so I felt that I had to ask for pharynx to see what they were describing.

Q. Were all of the articles you copied concerning either the larynx, or if the article didn't distinguish enough, the pharynx?

MR. BIERSTEKER: Are you -- I object to the form again, and just, I'm not trying to interrupt the flow of your examination --

MR. HOLFORD: How about stating what you should then.

MR. BIERSTEKER: Let me just tell

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you, is your focus of this work that he did in connection with cancer of the larynx, or do you mean to include the work he also did in connection with cancer of the lung? That's all I want to understand.

MR. HOLFORD: Mr. Biersteker -- well, I don't have anything to say about that right now, but I want to note that I have a very great big objection to what you just said, okay.

MR. BIERSTEKER: Well, I'm just trying to understand your question.

Q. (By Mr. Holford) Dr. Hudson, what I'm trying to get at, did all of the articles that you copied concern the larynx?

A. No, sir.

Q. Did some of them concern the pharynx?

A. Or combinations of the two. Usually when the pharynx was involved it usually was an article that also might have something on the larynx in it.

Q. Did all of the articles you copied concern either the larynx or the pharynx or both?

A. No.

Q. Are all of the articles that you copied that you intend to use in this case on either the

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larynx or the pharynx or both?

A. No, sir.

Q. Are all of the articles that you copied for use in this case concerning cancer?

A. No, sir.

Q. Are all of the articles that you copied for use in this case concerning disease?

A. No, sir.

Q. Outside of disease, what are they considering?

A. I copied articles that had to do with when peer review got started, on philosophy of history, on difficulties physicians had in interpreting medical literature, and probably a variety of others that I could come up with simply by consulting my list, but that's an example of other sorts of material I was interested in.

Q. Do you have an index of all the copies you made in this, for this case?

A. These cards are, reflect all the ones that I noted. That would include almost everything that I copied. There might have been a few that I did not make cards on.

Q. Do you know how many articles you have on what you call the difficulty of physicians in

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interpreting medical data?

A. I believe only two that I copied.

Q. Could you produce those, sir?

A. These were not noted, I should say.

Q. Then, by all means, let's get them out. Would that take a long time, sir?

A. Well, I may not even have those here. I may have to -- because they're, I considered them somewhat peripheral to what I was doing, but merely -- and they're very recent articles, 1990, for example, they're not historically related to the understanding that went on then.

Q. So -- all right. You mean in the discussions in those articles they don't look historically at all?

A. No, implicit in it is that physicians have had difficulty reading journals and getting the right scientific information from them, is the message I was seeking when I looked at these.

Q. They dealt only with physicians; is that right?

A. Yes, the one or two that I'm talking about.

Q. Nothing about scientists other than physicians, right?

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A. No, no.

Q. Do you remember -- you don't have notes on them, do you remember what journals they came from?

MR. BIERSTEKER: Do you want to take a short break, have the Doctor look?

Q. (By Mr. Holford) Do you have them in your office here?

A. No.

Q. They're probably at your home?

A. They're at home if I've --

Q. And that's a fair distance from here, right?

A. About 35 miles.

(Off-the-record discussion.)

A. (Witness Continues) The Robins article of 1962 would be one in Minnesota Medicine, an article by Haynes. I do have the note on that, excuse me.

Q. (By Mr. Holford) How do you spell the Haynes?

A. H-a-y-n-e-s.

Q. Are you -- you're reading from some notes there?

A. Yes, it's called, "Dissemination of

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Information, Problems of Analysis."

Q. Could I see that, please?

A. Yes, but let me get that number. F-347.

MR. HOLFORD: Do you want to make copies of these, or should I mark these?

MR. CRUSE: Let's copy those, leave those here.

Q. (By Mr. Holford) The two pages of notes --

MR. BIERSTEKER: Do you want to ask about them now, or should I make a copy now?

Q. (By Mr. Holford) -- titled, Issue of Dissemination of Information -- is that what I have here, Dr. Hudson?

A. Yes.

Q. Those notes are in your handwriting?

A. Yes, sir.

MR. HOLFORD: And that will be Exhibit 4.

Q. (By Mr. Holford) Now, in your index, card index, you have -- some of these say C or have a reference to an F --

A. If they have a letter, number reference, I have them right here.

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Q. You could give a more complete --

A. Yes.

Q. -- citation of the articles, right?

A. Yes.

Q. During the next break do you think you could do that and just enter them on this, these two note pages here before the reporter marks them as Exhibit 4?

MR. CRUSE: What are you asking him to do?

MR. BIERSTEKER: No, he'll tell what the cites are.

MR. WALLACE: Would you like me to make a copy of that now, Mr. Holford, so we can facilitate this a little more?

Q. (By Mr. Holford) Will you write the notes as to the, describing the articles?

A. You want the citation?

Q. Citations; yes, sir.

A. For any that have that code on them, it would be no problem.

Q. Right. Will you do that on the copy that's going to be made of these two pages on a break?

A. I can put it out on one margin.

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Q. Let's do that during the break. Now, aside from the, when peer review started, philosophy of history, and what Exhibit 4 will show as to dissemination of information to physicians, is it correct that all of the articles you copied related to cancer of the larynx or cancer of the pharynx or both?

MR. BIERSTEKER: Object to the form of the question. That mis-characterizes prior testimony; counsel testified.

MR. RILEY: Object to form.

A. (Witness Answers) I still can't say that there are not other aspects that would relate to the subject and helped form my opinion that are outside those topics that I just brought you off the top of my head.

Q. (By Mr. Holford) Are cancer of the larynx and cancer of the pharynx the only two diseases that are mentioned in the articles that you copied?

MR. BIERSTEKER: Objection to form of the question. Asked and answered.

A. (Witness Answers) Oh, no, no. Many diseases are mentioned in the articles I copied.

Q. (By Mr. Holford) Are those mentions

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incidental to what you were centrally searching for here?

MR. BIERSTEKER: Object to form of the question, vague and ambiguous.

A. (Witness answers) I suppose I'd have to look at each one, have it in my hand and see how it, why they used the disease name to answer that. It would vary from article to article.

Q. (By Mr. Holford) Now, your key words for searching on -- were those for searching on Index Medicus?

A. That's what I used them to start with, yes.

Q. In the Harris bibliography did you look, did you copy every article that Dr. Jeffrey Harris included?

A. I do not believe so.

Q. How did you make your choice?

A. Based on the title is all I could have had to make a choice, because I didn't have the article.

Q. But what about the titles?

A. Whether or not it seemed to be related to cancer of the lung, basically.

Q. Cancer of the lung?

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A. Yes, sir.

Q. In this case?

A. That's why I copied the Harris.

MR. BIERSTEKER: Yes, Mr. Holford, have you read Exhibit 2?

A. (Witness Continues) I got the Harris materials as part of the study for cancer of the lung.

Q. (By Mr. Holford) Okay.

A. I got his bibliography and articles related to his bibliography as part of that study.

Q. Why wasn't lung one of your key words for the Index Medicus?

A. Because I thought you were then asking only about the current trial; I didn't --

Q. I'm still only asking about the current trial?

A. Yeah, I did not search the literature again for current, for lung references when I started work again in January on the Allgood case.

Q. Okay. So in this case, the Allgood case, you do intend to include everything that you found on cancer of the lung in the case with Arnold & Porter in forming your opinions; is that right?

A. If I'm asked those questions.

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Stanford Tobacco Industry Documents. ucsf.edu/docs/jthl0001

Q. Well, I'm talking about what you -- I have to rephrase that.

As you presently expect, Dr. Hudson, from everything you've been told up to now, do you expect to use the cancer of the lung materials from the Arnold & Porter case as basis for your opinions in this case?

A. Some of them.

Q. But the ones you'll use are, have to do with cancer of the lung?

A. They might.

Q. You don't know?

A. Well, I don't know yet at all which ones I'm going to use. That's my problem.

Q. Well, I'm not talking about what -- I'm not talking about the future, Dr. Hudson, I'm talking about --

MR. CRUSE: Yes, you are. That's exactly what your question is.

Q. (By Mr. Holford) As you sit there right now, and as to the opinions that you have formed up to now for purposes of testifying in this case, are you including as basis the work you did in the Arnold & Porter case on lung cancer?

MR. BIERSTEKER: I object to the

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form of the question, but you may answer, Doctor.

A. (Witness Answers) I think that the statement that I have there indicates that there was no reliable scientific evidence suggesting that cigarette smoking causes laryngeal cancer or lung cancer in smokers; so, yes, to that extent if I'm asked about lung cancer I'll try to respond about lung cancer.

MR. HOLFORD: Object, non-responsive, and motion to strike.

Q. (By Mr. Holford) So, Dr. Hudson, you're saying that as you presently expect now, your opinions in this case will be based on your past searches of, on lung cancer in the Arnold & Porter case, as well as your searches on laryngeal and pharynx cancer in this case?

A. Yes.

Q. Do you have -- where are all the materials on the Arnold & Porter case?

MR. BIERSTEKER: Object to form. What materials do you mean?

A. (By the Witness) Are you talking about the notes that I took?

Q. (By Mr. Holford) Any work you did in that case.

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A. It's all in here together. These have to do with the larynx; these have to do with the lung study originally, and the reprints are all mixed up. Two boxes have to do with larynx; the big boxes came out of the Arnold & Porter study; the one on the floor is also from the Arnold & Porter study.

Q. Okay. So what you just indicated is the two plastic, the smaller card files, those are your, the result of your studies in cancer of the larynx?

A. Yes, sir.

Q. And the bigger tin files actually from the Arnold & Porter case, and that's your lung cancer index?

A. Yes, sir.

Q. And the two storage boxes of files over here and then the two bigger -- back up.

Are these two smaller storage boxes the particular ones?

A. Yes. All of these that are marked LX have to do with the larynx study; all these that are marked F came out of the lung study.

Q. What do those two big boxes to the left there have to do with this?

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Tobacco Industry Documents. http://www.tobaccoindustrydocuments.ucsf.edu/docs/jthl0001

A. These are all to do with the lung study, meaning that's where I acquired -- that's when I acquired them.

Q. That was entirely in the Arnold & Porter case?

A. Yes.

Q. This box down here on the floor, what's that?

A. That's committee reports from the Tobacco Institute Research Council, so that came out of the original study of Arnold & Porter also.

Q. You have a copy of the Surgeon General's 1964 report?

A. Yes, sir.

MR. WALLACE: That's an original one too.

A. (Witness Continues) First edition, very valuable.

MR. WALLACE: Very rare.

MR. RILEY: He's been trying to get his hands on one.

Q. (By Mr. Holford) Tell me again why you didn't copy all of Jeff Harris' annotation articles, Dr. Jeffrey Harris?

A. Cancer of the Mouth -- that was one of

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his. These are from his bibliography that I did not copy.

Q. Those -- you sliced them up there, right?

A. That's right.

Q. Could I see that, sir.

A. (Witness handed to attorney).

Q. That's a copying job. Well, is it fair to say that if I looked through, we're talking about two -- back up.

Could I see the reports of Jeffrey Harris that you have?

A. These are what I have labeled Harris report. I haven't looked at them for a long time, so I'm not certain exactly what --

Q. Well, you've handed me here Expert's Report of the State of the Art, Jeffrey E. Harris, August 1st, 1986?

MR. WALLACE: '85.

Q. (By Mr. Holford) Right, 1985; is that right?

A. Yes, sir; if you --

Q. And also Expert's Response to Request for Additional Information by Defendant Phillip Morris, Incorporated, Jeffrey E. Harris, M.D.,

http://legacy.library.ucsf.edu/tid/dbp07a00/pdf https://www.industrydocuments.ucsf.edu/docs/jthl0001

Ph.D., July 28, 1987, right?

A. Yes, sir; if you've read them correctly. As I say, I haven't looked.

MR. HOLFORD: Did I, Mr. Wallace?

MR. WALLACE: You appeared to read them correctly.

Q. (By Mr. Holford) So what you did is you looked -- did you read those reports at one time?

A. Yes, sir.

Q. And then you went to the annotations at the end of the reports?

A. Went to the bibliography.

Q. Bibliographies, all right. And you copied only those articles which by the titles in the bibliography appeared related to lung cancer, right?

A. I copied anything that I thought might be of use in trying to make a decision about what the charge I had from Arnold & Porter's lawyer.

Q. All right. Now, this work on Jeffrey Harris was done in the Arnold & Porter case then?

A. I don't know.

Q. I meant -- I'm sorry, your work that you did in reading the Jeff Harris report?

A. Yes, I've not looked at that again.

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Q. You haven't looked at it in this case?

A. No, sir.

Q. So at that time you were interested only in lung cancer; is that right?

A. Yes, sir.

Q. And so these clippings are the titles from the Jeff Harris bibliographies from those two reports that don't have to do with lung cancer, right?

A. That I did not want to get reprints on. I'm not saying it did not, might not contain the words lung or cancer in them. I don't remember. I haven't looked at them for a long time.

Q. The only articles that you did copy from looking at the Jeff Harris bibliographies in these two reports did have to do with lung cancer?

MR. RILEY: Mis-characterizes his testimony, object to form.

A. (Witness Answers) No, I can't say that definitely either. In fact, as I think more of it now, I may have some of those articles.

Q. (By Mr. Holford) That are in these clipped ones?

A. Yes. I used those just to save re-doing the, re-copying bibliography of a title to the

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article on my cards and perhaps making a mistake, but I may have gotten some of the reprints and handwritten them on my cards that are in that file.

Q. Well, okay, like for instance here's Hammond's 1968 Smoking in Relation to the Death Rates of 1 Million Men and Women.

Do you remember what I'm talking about here -- maybe it's -- well, it looks like it says '68, but I think it's, isn't that probably '58, Dr. Hudson?

MR. BIERSTEKER: Object to form.

MR. RILEY: It is what it is.

Q. (By Mr. Holford) I think it's '68 'cause it refers to U.S. Public Health Service Report in '64 here; so did you copy that one?

A. No, it would have been past my date of interest.

Q. Okay. So is it fair to say that the articles that you can recall copying from the Harris bibliographies were those that had to do with lung cancer which were in your period of interest before 1964?

A. Yes.

MR. BIERSTEKER: Object.

MR. RILEY: That mis-characterizes

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the testimony.

Q. (By Mr. Holford) Now, Dr. Hudson, can you hand me the articles that you've copied from before 1953?

A. In which case are we talking about now?

Q. Well, if we say anything you've got, how long would that take? Are they organized by date?

A. Yes.

Q. Okay. Could you see what's before '53?

A. Do you want from the larynx?

Q. Anything you've got.

MR. WALLACE: On what?

MR. HOLFORD: I say articles he copied.

MR. WALLACE: Pre-'53?

MR. HOLFORD: Pre-'53.

Q. (By Mr. Holford) Well, make that pre-'54, includes '53, if that makes any difference.

A. Say it again, please.

Q. Pre-1954.

A. Pre-'54?

Q. That would be '53 back.

A. Okay. The reprints themselves on cancer of the lung study are not arranged chronologically,

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but I have them, the cards are arranged chronologically.

Q. So, as a matter of fact, now, what you've put before me here is a stack then that's just on the larynx?

A. Yes, sir.

Q. And you have -- and these are chronological?

A. Yes, sir.

Q. And then you have --

A. And alphabetical.

Q. Okay. Are all of the articles that are in here noted on your larynx cards?

A. Yes.

Q. And any lung articles that you would have over there are also noted on your lung cards?

A. I believe that's true.

Q. Okay. Could I see the cards that are for articles pre-1954?

A. You want to take them out?

MR. BIERSTEKER: Give him the full box.

Q. (By Mr. Holford) If you could just tell me where it starts?

A. This is the alphabetical by author, this

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is chronological by date. Excuse me. I have some out here of some that I thought I might be asked about explicitly. You want up through '53?

Q. Could I see this stack?

A. These are lung or larynx, these are mixed up.

Q. Let me just take a look at that stack. Are these all before '54?

A. No, sir. Those are any time up through, maybe even after 1964.

Q. On what basis did you select out these cards?

A. On the basis of my estimate of which were significant articles that I wanted to review more than once before coming to the deposition.

Q. You mean of all of these five boxes, and three?

A. There's about 500 some articles, yes, reprints. 138 on the larynx, 375 I think on the --

Q. But it would be more than one page each?

A. Oh, yes, this is articles.

Q. Right. Well, these are all articles in these boxes, right?

A. Yes.

Q. So -- well, let's put it this way, out

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of these two small plastic box index cards, and this larger tin box of index cards, what you just handed me here are the ones that you think are the most interesting about this case?

A. No.

MR. BIERSTEKER: Object to form of the question. He's already testified the ones he wanted to review again before his deposition.

Q. (By Mr. Holford) That's not so?

A. No. The ones that I wanted to try and have in mind for the deposition, yes.

Q. Is that not because you consider them the most important?

A. Well, that I thought you might consider them most important more.

Q. How is what you think I might consider most important different from what you think most important?

A. Well, I'm approaching it from a historian standpoint, you're approaching it from a lawyer's standpoint, and I've already discovered that that makes a significant difference. I didn't mean to be flippant about that.

Q. I didn't take it as so. I took it as an answer to my question.

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How does the selection of these cards from all the ones that you have differ from what you would have picked if you were doing it from your position as a medical historian for purposes of giving this deposition?

A. Because they're articles that as they stand and out of the historical context could appear to a lawyer just becoming acquainted with the subject as being very significant in what they state, whereas in my overall context they may not have that same significance, but I anticipated that I might be asked about them simply because as free-standing articles out of context they might seem to state things that I didn't, had not arrived at as my own conclusion.

Q. Well, Dr. Hudson, to the extent that there is anything significant in your view in these cards that you have, do these cards you just handed me represent the most important of those?

A. I don't really want to say that.

MR. BIERSTEKER: Object to the form.

A. (Witness Continues) I pulled those out very quickly for purposes of my last meeting with Mr. Biersteker. I would want much more time to try

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and have the ones in hand that I consider significant myself.

Q. (By Mr. Holford) Well, do you consider these cards, the works reflected on them, that you've just handed me, significant?

MR. RILEY: Object to form of the question.

A. (Witness Answers) For the purposes of this trial, I thought they might be significant.

Q. (By Mr. Holford) Well, for the purposes of the opinions you've been asked to give in this case?

A. In both positive and negative ways they are significant, yes.

MR. HOLFORD: That will justify copying them, Exhibit 5, copies of them.

Q. (By Mr. Holford) So you selected out these cards, Exhibit 5, in this meeting you had with Mr. Biersteker this morning?

A. No, after the meeting, and in preparation for this.

Q. When did you have the, your last meeting with Mr. Biersteker?

A. It was last week, as I recall. I don't have my date book with me.

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Q. Your memory is fine, sir.

A. I believe it's been within the last week or ten days.

Q. All right. And was that -- about how long was that meeting?

A. It started at 9:00 and ended at 1:00.

Q. And in that meeting did you go over with Mr. Biersteker all of the materials you have here?

A. No, sir.

Q. What did you do?

A. I was asked questions that it was anticipated I might be asked by you today or later.

Q. And it was during that meeting or after that meeting that you selected these cards, Exhibit 5?

A. Yes.

Q. Is that right?

A. Yes.

Q. And these cards, Exhibit 5, include the most significant of all the cards you have, that they include the cards that you would select as supporting your opinions in this case?

MR. BIERSTEKER: Object to form of the question, mis-characterizes the testimony.

A. (Witness Answers) I thought I just

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answered that, I did not do that. These were done very hurriedly without enough thought to answer that in one way or the other.

Q. (By Mr. Holford) All right. Now, do these cards, Exhibit 5, include all of the cards that you have for works before 1953?

A. No.

Q. Okay. Again, which are those cards?

MR. BIERSTEKER: (Indicating).

Q. (By Mr. Holford) Are there duplications between Exhibit 5 and what's left in these file boxes?

A. There may be a small overlap between the whole lung study and the larynx study because some articles talked about both lung and larynx and on occasion I would make a duplicate card, but that's a very small percentage of them.

Q. Just by the size, I guess I can tell these cards in Exhibit 5 are from the lung cancer cards, right?

A. Yes, sir.

Q. Could I see the larynx cancer from before '53?

MR. HOLFORD: We're going to make -- how are we going to make copies of these cards?

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MR. CRUSE: Why don't we wait, at a break we can talk to the Professor about this, if he can maybe have the department do it here for the same rate that Ann can do them at her place, that way they wouldn't have to leave here, if the school would want to do it, if that's what the Professor would want to do. Otherwise, we'll have to work out something else, but I don't think he wants his cards to disappear, he's put a lot of time --

MR. HOLFORD: That's why I asked.

MR. CRUSE: We'll work something out.

Q. (By Mr. Holford) We'll take this -- so what I'm holding in my hand here from your little box is what you have on larynx cancer from 1953 and back, right?

A. Although there may be some in which larynx is included with the discussion of lung that are in the lung file only.

Q. Let me put it this way, what I have here in the big cards and the little cards from '53 back are all the cards, all the index material you have from '53 back, and plus Exhibit 5?

A. Yes, sir.

MR. HOLFROD: Okay. Then I want,

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I'm going to mark the lung cancer cards, copies of them, as Exhibit 6-A, and the larynx cancer cards '53 back as Exhibit 6-B.

MR. CRUSE: If you just leave your hands on them overnight, we'll be sure to get them copied for you. I'm sorry.

We'll get them copied here so you don't have to worry about them being messed up. We can have them done under your supervision, or somebody from your office.

Q. (By Mr. Holford) Dr. Hudson, are you reflecting there might be some other cards that go into those pre-'53 and back?

A. No, sir.

Q. Okay.

A. No. I was doing something entirely different.

Q. All right. Now, and an expert in the fields of lung and larynx cancers probably would have known of the studies reflected on these cards, Exhibit 5, and 6-A and 6-B, at about the time of their publication?

MR. RILEY: Object to form.

MR. BIERSTEKER: Object to form of the question.

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MR. RILEY: Compound, multiple.

A. (Witness Answers) I have a lot of problem with that question. First is the word "expert," if you could help me there.

Q. (By Mr. Holford) All right. Well, are you an expert, sir?

A. Well --

MR. BIERSTEKER: In what? Object to form.

A. (Witness Continues) I've been designated that.

Q. (By Mr. Holford) Do you consider yourself an expert, sir?

MR. BIERSTEKER: In what?

A. (Witness Answers) In history of medicine.

Q. (By Mr. Holford) If that's what it's in, that's fine.

A. Yes.

Q. You're an expert, right?

A. Yes, I suppose so.

Q. Now, do you know that there are experts in lung and larynx cancer?

A. Now?

Q. Now, yes.

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A. Yes.

Q. Do you think there were any experts in lung and larynx cancer in the '30s, '40s and '50s?

A. Not in the same sense that I just responded.

Q. You don't think they knew as much about the body then as we know now?

MR. BIERSTEKER: Object to form of the question.

A. (Witness Answers) That isn't really what I meant by my response.

Q. (By Mr. Holford) Well, what did you mean?

A. I meant they weren't specialized in the way they are now.

Q. Okay. Let's talk about a medical scientist, a researcher in the fields of larynx and lung cancers; they did exist, right?

MR. BIERSTEKER: When? Object to form.

Q. (By Mr. Holford) Back in the 1930's, '40s, '50s?

A. Increasingly during those periods.

Q. So I'm going to speak of such an expert in research in lung and larynx cancer, medical

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scientist, they would probably know of these studies that are reflected in Exhibit 5 and 6-A and 6-B at the time of their publications?

MR. RILEY: Object to the form.

A. (Witness Answers) Not necessarily.

Q. (By Mr. Holford) You don't think so?

A. No, not back then.

Q. They wouldn't be interested in what was happening in their fields?

MR. RILEY: That's not what he said.

A. (Witness Answers) They would not necessarily have known the foreign literature. I've even been surprised to find how some of them who would be looked upon as -- some who were writing articles on the subject were not aware of other articles that existed then.

Q. (By Mr. Holford) Well, I'm only talking about what you would consider an expert in research in lung and larynx cancer?

A. Yeah, that's where I'm having a problem for the periods we're talking about, because the articles were, many of them, not written by individuals who limited their studies to this and would be looked upon as experts in the same sense

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that we do nowaday.

MR. HOLFORD: Objection, motion to strike, non-responsive.

Q. (By Mr. Holford) Dr. Hudson, I'm not addressing authors of articles, I'm addressing a person who you would consider an expert in the field of research in lung and larynx cancer.

I believe you said that there were people in that field, in an emerging number, during the period of the '30s, '40s and early '50s; is that right.

MR. BIERSTEKER: Was your question were there experts in that field in emerging numbers in the '30s, '40s and '50s?

MR. HOLFORD: Yeah.

MR. BIERSTEKER: Okay.

A. (Witness Answers) There were individuals who were beginning to focus their attention, yes, on those areas during that period.

Q. (By Mr. Holford) The incidences of lung cancer went from a rare disease to close to what would be considered epidemic at the time in the early 1920's, didn't it?

MR. RILEY: No foundation for that.

A. (Witness Answers) This would take a

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long discussion to establish. There were some who saw a rapid increase in it, there were others who didn't, there were some who thought they were spurious.

Q. (By Mr. Holford) We are talking now just about the incidences of lung cancer?

A. Yes.

Q. Right?

A. Absolutely.

Q. You say that there were -- what was the prevailing view in the early '20s, how many were there?

MR. CRUSE: Wait a minute. What are you asking?

MR. BIERSTEKER: Object, compound, vague, ambiguous. One at a time works much better.

Q. (By Mr. Holford) Dr. Hudson, what was the incidence of lung cancer in the early 1920's?

MR. BIERSTEKER: Where?

Q. (By Mr. Holford) In the United States?

A. I can't give you the figure off the top of my head. It would not have been an accurate figure in any event.

Q. Well, was it larger or smaller than it was in the end of the 1800's?

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A. It was considered larger than the end of the 1800's.

Q. Was it a marked difference between the end of the 1800's and the early 1920's?

MR. BIERSTEKER: Object to form of the question insofar as it's unclear, and to perhaps guide Mr. Holford in framing a better question, I'm saying it's not clear what we know today's incidence of lung cancer, back at that time, or back at that time what people thought.

Q. (By Mr. Holford) Did you understand my question?

A. Could you repeat it again.

Q. Yes, sir. Was the difference in the incidence of lung cancer a marked difference between what it was at the end of the 1800's and what it was in the early 1920's?

MR. BIERSTEKER: Same objection.

A. (By the Witness) The early 1920's, you're saying?

Q. (By Mr. Holford) Yes, sir.

A. This was not the prevailing view. It was still considered a rare disease in the early 1920's.

Q. When did it become a quickly escalating

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phenomenon?

A. It was from that period that you just mentioned on up into the early 1950's that it began being recognized as increasing more rapidly.

Q. So let's talk then about the early 1940's then, and say that at that time an expert in research in larynx and lung cancer probably would have known of the articles reflected in Exhibit 5 and 6-A at about the time of their publication?

A. No, I can't generalize on that.

MR. BIERSTEKER: Object to the form of the question.

Q. (By Mr. Holford) Would not such an expert have Index Medicus?

A. Yes, or very many of them would have had access to it, yes.

Q. And Index Medicus picks up articles whether they be in English or any foreign language, right?

A. Correct.

Q. So Index Medicus would have been able to inform such an expert as to articles from any source that had to do with lung cancer and larynx cancer, right?

A. Those that were in the Index Medicus,

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yes. By definition, yes, if they were there they would have been available to anybody who looked for them.

Q. Well, you examined Index Medicus back that far, didn't you?

A. Yes, sir.

Q. And was Index Medicus the recognized library source for such articles?

A. It was recognized -- it was the recognized index to the literature of medicine, science and medicine, scientific medicine at that time, yes.

Q. So I'm saying would not an expert in the field of larynx and lung cancer at that time be able to find in Index Medicus those cards, those articles such as are reflected on Exhibit 5 and 6-A at that time in the early '40s?

MR. BIERSTEKER: Object to the form.

A. (Witness Answers) Yes, sir; it seems to me that the articles itself, yes, they were in there, he could find them if he or she looked.

Q. (By Mr. Holford) What percent roughly of articles -- back up.

Are there articles on, in your cards in the Exhibit 5 and 6-A and 6-B that concern the

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early 1940's and that were not in Index Medicus?

A. That -- articles that concerned what now?

Q. That were from the period of the early 1940's, I'm talking about articles that are on your cards, Exhibit 5 and 6-A and 6-B, but I'm limiting that to the period of the early 1940's that we're talking about here, and I'm saying aren't all of the articles that you have on those cards for that period in the Index Medicus, for that period?

A. I'm not certain, because I didn't work it that way. I worked it the opposite way. I went to Index Medicus in order to get some of the cards you have, but I'm not certain whether all the cards I have were in Index Medicus, I've never checked that in reverse that way.

Q. Well, what is your estimation of the percent of articles that would be on your cards, Exhibit 5 and 6-A and 6-B, for the period of the early 1940's that are in Index Medicus?

MR. CRUSE: How can he say that if he never checked?

MR. RILEY: He said he doesn't know.

MR. BIERSTEKER: He didn't check, didn't do it that way.

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A. (By the Witness) You're asking me to guess at this?

Q. (By Mr. Holford) Is that what it would be? You really have no idea, I mean?

A. I have an opinion about that.

Q. Well, I'm asking from your knowing what Index Medicus is, Dr. Hammond -- Dr. Hudson, sorry.

A. And you're talking about scientific articles only, not these others that I may have on the cards?

Q. You mean like editorials?

A. Well, not just editorials, but --

MR. WALLACE: Methodology?

A. (Witness Continues) -- philosophy of science.

Q. (By Mr. Holford) Yes, sir; the medical only.

A. My guess is that most of them -- my guess is that almost all of the ones I have on the cards would have been in Index Medicus.

Q. Do you agree that a true expert in the field of lung and larynx cancer, if they were going to find out what was available in the medical literature in those fields, would consult Index

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Medicus?

MR. BIERSTEKER: Object to form. I don't know what true expert is.

MR. CRUSE: As opposed to untrue or otherwise?

A. (Witness Answers) To meet my definition of an expert, yes, he would, he would have to be that rigorous at least.

Q. (By Mr. Holford) That would be about the first step, wouldn't it be, sir?

A. For most scientists, yes.

Q. Let's take a cigarette manufacturer at that time, in the early 1940's, and say they have on their staff, or they have available the expertise in the field of larynx and lung cancer that we've discussed; would not such a manufacturer acting reasonably and prudently be telling its customers what was available in the medical literature about lung and laryngeal cancer at that time?

MR. BIERSTEKER: Object to form of the question in that it calls for speculation, number one; number two, it's vague and ambiguous.

MR. RILEY: Object to form of the question.

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MR. BIERSTEKER: There are lots of undefined words in that question.

MR. RILEY: Calls for legal opinion.

MR. BIERSTEKER: And legal opinion as well.

Q. (By Mr. Holford) Let me rephrase it, Dr. Hammond.

MR. BIERSTEKER: Dr. Hudson.

Q. (By Mr. Holford) You see, there was -- okay, Dr. Hudson --

MR. WALLACE: I was thinking Joe Dimaggio.

THE WITNESS: I hope you remember this confusion when you ask me about one of these 500 articles, who wrote it and --

Q. (By Mr. Holford) Dr. Hudson, a manufacturer having expert knowledge in the fields of lung and larynx cancer in the early 1940's, and acting reasonably and prudently toward its customers, should have been telling its customers what the medical literature disclosed about lung and larynx cancer at that time?

MR. BIERSTEKER: I object on the previous grounds. I again object to the form of the question, calls for speculation, legal opinion

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and difficult to understand.

MR. RILEY: Also, no foundation for, insofar as it asks what was in the literature.

MR. CRUSE: The definition of expert is undefined, so that's an objection as to form.

A. (Witness Answers) Perhaps I could save us some time by indicating that I've thought this through, and I don't intend to -- I don't intend to try to answer any questions about what manufacturers should have done or when they should have done it, period.

Q. (By Mr. Holford) All right, sir. Does that include that you will not testify that a manufacturer should not have done something or other?

MR. BIERSTEKER: I object to form of the question as being hopelessly broad and ambiguous.

A. (Witness Answers) Yes. I simply don't feel qualified to answer the question posed either way.

Q. (By Mr. Holford) And does that include you're not testifying that there was no basis for a manufacturer to have to have been doing something?

MR. CRUSE: I object to form of the

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question, "no basis" is undefined and vague.

MR. BIERSTEKER: Object to form.

A. (Witness Answers) Yes, it includes that.

Q. (By Mr. Holford) Did you stop reading the medical literature after 1964?

A. '64?

Q. Yes, sir.

A. I stopped the systematic search at 1964.

Q. I understand that; but I'm saying in your practice, in your existence?

MR. WALLACE: His practice or stopped work in this case?

Q. (By Mr. Holford) I just asked did he stop?

A. No, I have continued to read some of the scientific literature right up until yesterday.

Q. I think you indicated you stopped your practice in treating patients and so on about 1970, or tapered down then?

A. Yes, sir.

Q. And did also -- is that about when you started being a medical historian, a librarian, in other words?

A. The two were overlapping, and I started,

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shifted my emphasis from the clinical to historian beginning in 1966, and by 1970 I had stopped supervising the allergy clinic and thereafter my clinical work decreased.

Q. And by "clinical work" you mean treating patients?

A. Yes, sir.

Q. And did you become the librarian of the Medical Library here at this Kansas University Medical Center?

A. I was acting librarian of the main Medical Library for part of a year while they searched for a replacement. I have been the curator of the History of Medicine Library ever since I was appointed chairman.

Q. When was that?

A. 1966 acting chairman, and 1969 as chairman; but these are two separate libraries, to keep the record straight.

Q. I see.

A. They have no connection to each other, physically or otherwise, except we keep each other's access to each other's cards.

Q. The index cards?

A. To the computerized record of holdings.

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Q. Did you use any computerized or computer assisted search in your search in this case, or the -- in this case?

A. No, sir.

Q. Did you use one in the Arnold & Porter case?

A. No, sir.

Q. Are the records of the medical history library computerized?

A. They're in the process of being computerized right now; three year project, we're about midway through it.

Q. Was it your efforts that formed the medical history library?

A. No.

Q. It was existing how long before you took it over?

A. The donation of the original 7,000 volumes was in 1945.

Q. The medical history library doesn't have the scope of medical works as does the main library, does it?

A. Not the scientific scope, no.

Q. Are you distinguishing medical and scientific?

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A. No, I was just distinguishing historical and scientific. Our focus is on history, although we have items that were published yesterday that have to do with the history of science and medicine.

Q. It is purely a history library, in other words?

A. That's right.

Q. Okay.

A. Mainly that, it's also philosophical.

Q. Since 1966 or 7, or whenever you became director of the medical history library, did you continue to read medical journals?

A. Yes, sir.

Q. Did you have particular ones you read?

A. Yes, sir.

Q. What were those?

A. The New England Journal of Medicine; The Annals of Internal Medicine; Journal of American Medical Association; and for a while The Archives of Internal Medicine. That's all the scientific journals.

Q. All right.

(Recess taken.)

Q. (By Mr. Holford) Dr. Hammond -- Dr.

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Hudson -- he's an industrial hygienist.

Dr. Hudson, if you'll refer to this Exhibit 3 here, I just want to briefly ask you about these categories, maybe we've already covered it.

Now, do you have any -- we're looking at the second page of Exhibit 3 under subpoena duces tecum?

A. Yes.

Q. Do you have any Item 1?

A. Yes, sir.

Q. You have a written agreement?

A. No, no. I have the records of the amounts that I've charged.

Q. Okay. How much have you charged defendants in this case so far?

A. $37,655.19.

Q. What rate was that at?

A. At $125 an hour.

Q. And is that different than the rate you're charging the plaintiffs here because that's research and this is deposition?

A. Yes.

Q. What are you going to charge them at trial?

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A. I had not discussed that with anyone.

Q. But you don't know yourself, I mean?

A. No.

Q. Be at least 250 an hour?

A. I should think so, yes.

Q. Probably more, ha?

MR. BIERSTEKER: Hey --

A. (By the Witness) You mean they pay for that?

Q. (By Mr. Holford) Yes, sir.

MR. RILEY: Doug pays for the cross at trial, right, Doug?

MR. HOLFORD: Do you want to discuss that, Mr. Riley?

Q. (By Mr. Holford) You have nothing written under Number 1 except that?

A. No, no agreement; no, sir.

Q. What did you charge -- how much did you end up charging through Arnold & Porter in that case?

A. $100 an hour.

Q. How much, though?

A. Oh, the total?

Q. Yes, sir.

A. $54,746.

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Q. And that was at 100 an hour?

A. Yes, sir.

Q. We have 2 -- again, going back to Exhibit 3 now, correct, we have Item 2?

A. Yes, sir.

Q. I believe that's Exhibit 1, your curriculum vitae, right?

A. Yeah, I don't know where it is at the moment, but I did hand it to you.

Q. Yes, sir; right here. That's Exhibit 1, right?

A. Yes.

Q. Now, am I correct you don't have any of Item 3, that's works you have published?

A. No, I have one article.

Q. Could I see that, please?

A. You may have it. It is really not an article.

Q. That's why I used the word "works."

A. Yes.

Q. Could we get that after 1:00 perhaps?

A. Yes.

Q. Did I hear you say that you, that I could have this one?

A. You may have that.

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Q. It's a guest editorial titled, "Smoke Gets in Your Eyes," right?

A. Yes, sir.

Q. Volume 64 of the Greater Kansas City Medical Bulletin?

A. Yes, sir.

Q. May 15, 1969. Now, and Item 4 is the file boxes and the boxes of articles that we've previously described in this case; is that right?

A. Except for the books.

Q. The books, the somewhere between 25 and 75 books, right?

A. And articles that I didn't, that I did not copy.

Q. But they're noted on your index cards?

A. Not necessarily. They're cards I didn't think were worthy, or articles that weren't worthy of either.

Q. So are they very likely to be brought up in this case?

A. No, I shouldn't think so.

Q. Now, how can we get a handle on the books, Dr. Hudson? How can I get an idea of what books they are?

A. They're in the -- you can get a handle

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on them by, I guess, by thinking of textbooks of pathology and internal medicine and tumors that may have been published sometime during the period up to 1964.

They were largely used to refresh my own memory about what was known in a given area, for example, the physiology of 1950, I would go back to The Textbook of Physiology from 1950 and simply read to see if there was anything in there about cancer of the larynx or lung and smoking.

Q. Did any of the books that you reviewed mention smoking?

A. Yes, when I got into the later period.

Q. That is, after --

A. In the 1950's on. Let me retract that, if I may.

Q. Yes, sir.

A. Mentioned smoking at all; yes, earlier, there were books earlier than that that mentioned smoking.

Q. Did any of the books that you saw and that you're mentioning here today that were written before 1950 discuss smoking?

A. Yes.

Q. Could we do this, Dr. Hudson, you still

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know which of these books that you referenced for this case, right?

A. Not all of them, no, but some I would know, yes.

Q. Is it fair to say that you know the ones that you might refer to later, for instance, at the trial of this case?

A. It would again depend upon what I was asked, I suppose.

Q. Well, let's say that you've referred to before and that you could refer to later at the trial of this case, do you know which ones those are?

MR. BIERSTEKER: I don't understand. I object to the form.

Q. (By Mr. Holford) I am meaning to exclude any he's not going to have anything to do with after today.

A. That -- I can't do that without really knowing what I may be asked later on.

Q. Okay. Do you know right now where there are those books that you looked at before today about this case?

A. They're either in this library, my home library, or Dykes Library, the main science medical

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library for the most part.

Q. Well, I simply need to get a list of the books. Okay, the books, Item 4 here in the, in Exhibit 3 calls for books, doesn't it?

A. Yes.

Q. But they're not here, right?

A. Not on this table; no, sir, or in this room.

Q. And if they were here, we could simply read the titles off on the record?

A. That's right.

Q. But we can't do that because they're not here?

A. That's right.

Q. So I would ask if instead you would just make a list of those books that you referred to for purposes of this case that you mentioned here today?

MR. BIERSTEKER: I object to having the Doctor do this outside of the deposition, number one; number two, this is an incredibly broad subpoena, and there was objection interposed to this very question on that grounds, and the response said that materials that the Doctor made copies of and retained or that he made notes of we

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were going to produce, but we didn't feel obliged to produce anything further in light of the breadth of the subpoena.

MR. HOLFORD: Okay. I'm going to read from Defendant R. J. Reynolds Tobacco Company's objections to request for production from Dr. Robert Hudson, Page 2, as to request No. 4, Subject to, and without waiving Reynolds' objections, Dr. Hudson will produce all documents or materials in his possession, custody or control that he believes directly support the opinions which he intends to testify in this case.

MR. BIERSTEKER: Directly support, yes.

MR. HOLFORD: That's right.

Q. (By Mr. Holford) Are these books we're talking about, do they support your opinions in this case?

A. Some of them would in both a positive and negative way, yes.

MR. HOLFORD: Well, and as to the first part of Mr. Biersteker's objection, that's what I went through, those books that Dr. Hudson just mentioned should be here.

MR. CRUSE: I agree that it's way,

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way too broad. We went through this on another witness already. It would be impossible for this Doctor to bring in to the deposition every book, which he's already stated he can't even remember which one they are, that may have referred him to some article or may have refreshed something that he had in his own memory or education back in the 1950's. It's so broad it would be impossible for him to do that.

And then the Doctor said he can't remember the name of all of them. I don't see how he could bring in a book, the name of which he can't recall.

MR. BIERSTEKER: Why don't you just ask the Doctor, maybe --

MR. HOLFORD: I don't want a suggestion.

MR. BIERSTEKER: Why don't you just ask him what titles he remembers that he consulted.

MR. CRUSE: That would be too easy.

Q. (By Mr. Holford) Well, do you recall any?

A. Do I recall any of them?

Q. Yes, sir.

A. Oh, yes.

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Q. Name them.

A. Ewing's textbook of pathology, his book on tumors. I forget the exact title. E-w-i-n-g is his name.

Q. When was that published?

A. There were many editions of it. The one I looked at was in 1919. All of Osler's textbooks of medicine beginning in 1892, up until the mid part of the 1920's.

Q. Would you spell that?

A. Capital O-s-l-e-r, later put out by McKrae, M-c-K-r-a-e.

Q. And they went from what period to what period?

A. They start in 1892, and I think they ended in the mid '20s or late '20s.

Q. All right.

A. And from that point on I would have relied for medicine on Cecil's, C-e-c-i-l, up until around 1950, at which point I would have relied more on Harrison, H-a-r-r-i-s-o-n, for general internal medicine.

Q. What was the title of Cecil's book?

A. Textbook of Medicine.

Q. Okay. Any others?

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A. Ackerman and DelRegato's book on cancer is one that I looked at.

Q. Would you spell those?

A. A-c-k-e-r-m-a-n, and D-e-l, capital R-e-g-a-t-o.

Q. When was that published?

A. Numerous editions, several editions again, and I don't recall exactly which one, but around 1954, 5, in there.

Anderson's Textbook of Pathology, 1940 to '55 perhaps; Boyd's Textbook of Pathology, I suppose around 1955 or '60, in that area; Best and Taylor's Physiology, B-e-s-t, and T-a-y-l-o-r, 1950 edition roughly. Those are the ones that come immediately to mind.

Q. Are those the ones that you primarily relied on for your opinions in this case?

A. For one aspect of it, yes.

Q. The aspect you described of seeing what the medical text described at that time?

A. When they got -- when they started talking about an association between lung cancer and cigarette smoking.

Q. All right. So it wasn't just the physiology, you were also looking at cancer

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causation?

A. To see what -- yes, yes.

Q. But those are doctors talking, right?

A. Yes, sir.

Q. Many of them were smokers, right?

A. Yes.

Q. And that's not the extent of the people you refer to when you refer to scientists, right?

A. Oh, no.

Q. Let's look at -- let me back up.

Do you think there are any more books that you're likely to refer to as we get to trial in this case?

MR. BIERSTEKER: Object to form of the question.

Q. (By Mr. Holford) Medical books like the ones you just named?

MR. BIERSTEKER: Object to form of the question, mis-characterizes earlier testimony.

A. (Witness Answers) The best answer I can give at this point would be no.

Q. (By Mr. Holford) I mean, that you think you've named what you probably will rely on as this case goes forward, to the best of your memory right now?

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A. Yes.

Q. And do you think your memory is about as good as it's going to get?

MR. CRUSE: If we gave you a shot of sodium Pentothal --

A. (By the Witness) Do you want an answer to that?

Q. (By Mr. Holford) Yes, sir. I just want to know what I have to look at.

A. Oh, I suppose I've lost a little over the years, but I still feel that it's fairly good, yes.

Q. I mean, as far as you're sitting here right now, it's not going to be better if you sit in your office, think about it later?

A. It might be. I'm under more stress here than I am sitting in my office.

Q. What are the chances that you're going to come up with another book that you didn't name today?

MR. BIERSTEKER: If the Doctor thinks of another book that he hasn't been able to name here today, I'll provide you with that name.

MR. HOLFORD: Thank you.

THE WITNESS: I would be happy with

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that solution, yes.

Q. (By Mr. Holford) Is there anything in Item, that Item 5 calls for that we haven't already discussed in 4?

A. I read it to be very similar to 4.

Q. All right. And as far as Item 7, do you have anything additional to what you've presented here today? Have we already described on the record --

A. This is that I have in my possession?

Q. Yes, sir.

A. Yes, you have all my articles, scientific articles that I have in this room.

Q. Now, as far as any index of these various items that the duces tecum mentions, is there anything other than the index cards that we've described today?

A. No.

Q. I believe we covered you didn't provide any report or summary in any form to the defendants, anything in writing, that's Number 10?

A. No, I did one item, which was a brief summary of the names of articles relating to cancer of the larynx during the 1950's.

Q. Do you have a copy of that?

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A. I believe I do. I have two copies of it. You may have it, I guess, if you want it.

Q. All right. Then we'll just --

A. That's the only report, summary or report that I've sent to Mr. Biersteker.

Q. Do you recall why that was, is limited to 1950 to 1964?

A. That was my selection. I did this in an attempt to try to isolate papers in which etiology or causation was mentioned or considered important or omitted altogether in order to try to get a feel for how many of the scientific articles were concerned with etiology in the 1950's, and how many were not concerned enough with it to say anything about it or else to say something about it that indicated they didn't see much of a connection or whatever.

Q. Well --

A. So this was a working paper of my own.

MR. HOLFORD: Let's mark that as Exhibit 7.

(Whereupon, Hudson Deposition Exhibit No. 7 was marked for identification by the reporter.)

Q. (By Mr. Holford) A scientist at that

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time in the '50s and back could be interested in the question of does smoking cause disease and write a paper supporting it, or writing a paper otherwise?

MR. BIERSTEKER: Object to form of the question.

MR. RILEY: Object to form.

MR. HOLFORD: I'm not done with the question.

MR. BIERSTEKER: Isn't going to get any better.

Q. (By Mr. Holford) You're already not understanding it?

A. I'm a little vague already.

Q. Is it fair to say that the positions concerning whether smoking causes disease that you saw reflected in the works reflected in Exhibit 7 are what you saw back at that time in the '50s and back?

MR. BIERSTEKER: The '50s and back?

MR. HOLFORD: Yeah.

MR. BIERSTEKER: Okay.

Q. (By Mr. Holford) -- reflected people who thought that smoking had a role in causing cancer; there was some of that, right?

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MR. CRUSE: Object to form of the question.

MR. BIERSTEKER: I don't understand the question, and it sounds compound as well. First of all, you asked whether the list was that, then you asked whether there was some of that. I don't understand.

MR. CRUSE: Then he had '50s and back in there.

Q. (By Mr. Holford) The list is the '50s, 1950 to '64?

A. Yes, sir.

MR. CRUSE: The question said '50s and back.

A. (Witness Continues) I thought you meant back into the '40s and so forth.

Q. (By Mr. Holford) Well, before that, yes.

A. But then --

MR. BIERSTEKER: What's your question?

MR. WALLACE: Let's just have a question.

MR. BIERSTEKER: I don't think that question did it. There was obvious confusion. Do

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you want to try it again?

Q. (By Mr. Holford) Let's take the period that your Exhibit 7 addresses, 1950 to '64, during that period there were scientists who wrote that cancer -- smoking had some role in causing cancer, right?

A. These relate only to the larynx.

Q. Of the larynx. There were some who said --

A. Yes, there were some who believed there was a connection between smoking and carcinoma of the larynx.

Q. There were some who didn't mention the issue at all?

A. That's right.

Q. But you have no idea why they didn't mention the issue?

A. Well, the historian makes opinions from that sort of thing, so I do have an opinion about it, I don't know why.

Q. Okay. Do you mean that if you find an article that, let's say, discusses cancer of the larynx, but makes no mention about smoking at all, you have an opinion as to why that article doesn't mention smoking?

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A. I have an opinion as to why it might not have, yes.

Q. Let's talk about probably didn't, probably didn't. Do you have an opinion as to why such an article probably didn't mention smoking?

A. I would need that article in hand to see what the rest of the article was about and what the context of his comments about smoking or not smoking, what context it was.

If, for example, this was an article about cancer of the larynx as a terrible threat, we should really be doing something about it, and there's no mention of smoking, the historian would draw some conclusions from that, yes, but that's a hypothetical.

Q. Yeah, I understand. And if the article was about cancer of the larynx, describing a new surgical technique on it, or something like that, you wouldn't draw any conclusion from that?

A. I might.

Q. Let's pose an article that does just that, it describes a patient who was presented with cancer of the vocal cords and talks about whether to approach anteriorly or posteriorly in surgical technique, that's all it discusses; okay, now, you

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say you will draw a historical opinion relevant to this case from that?

MR. BIERSTEKER: He said he might.

A. (Witness Answers) You just told me that he gave a case history of this patient, described the case history of the patient.

Q. (By Mr. Holford) I never mentioned case history.

A. You said he came in, was describing a patient with cancer of the larynx. These are called case reports, and case reports include what they think is important in the history and the physical examination.

Q. Not in this article?

A. Well, I don't think you'll find many articles that deal with it this way. They almost always have a series of cases described and then talk about the new surgical approach to these cases.

Q. Okay. All right. Number 11 on the Exhibit 3, Dr. Hudson, I think we've covered that; Exhibit 7 is the extent of anything you provided to any defendant in this case, right? It's on Page 2 still.

A. Yes. Documents and other tangible

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items --

Q. That means anything you can hold in your hand?

A. You mean including my monthly billings to them?

Q. Actually, it does.

A. Then, no, I have correspondence that went along with every, practically every monthly billing.

Q. Do you have copies of that correspondence?

A. Yes. I'm not sure that this is -- this may be more than that, but it's this correspondence.

Q. Is that your correspondence file?

A. It's the -- yeah, it really wasn't correspondence in the sense of progress reports. There was only correspondence in telling what I was doing and telling what the bill was for that, when we were going to meet next, or that sort of thing.

Q. This stack that Mr. Biersteker just looked through, that's all it is is presenting and perhaps explaining your bills and discussing when to meet next?

A. Largely that. There could have been

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something about what I intended to do next, yes, or -- I don't remember exactly. There was never an attempt to summarize my position up to that point in any of that correspondence.

Q. In looking over the Dr. Elizabeth Whelan materials, you found them to be of great interest in terms of the broad-ranging subject materials that seemed to be allowable in a deposition, right?

A. Yes, I did. Scared the hell out of me.

Q. She was asked questions from every angle possibly imaginable, right?

A. It gave me a lot of concern about this session.

Q. This session hasn't been anything like that?

A. Not yet, but you aren't done.

Q. Can I hold these for a second, I mean, a few minutes, I should say?

A. Sure.

Q. Okay. So aside from paychecks, you haven't -- have you received anything from the defendants that we haven't discussed today?

A. No, reprints is all.

Q. Reprints?

A. And translations.

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Q. Translations, I mentioned; well, checks, you got paid, right?

A. Yes, they never came from, directly from the law office.

Q. Okay. Where did they come from?

A. I don't know, some little town out in Indiana or somewhere.

Q. That's the Jones-Day office probably, they're not just in New York or Washington, D.C., I mean.

A. Okay. Well, they didn't come directly from my friend here.

Q. Mr. Biersteker?

A. Yes.

MR. BIERSTEKER: They don't trust me with the money.

Q. (By Mr. Holford) That's all you've received from defendants in Item Number 12?

MR. BIERSTEKER: Whelan deposition too.

Q. (By Mr. Holford) Anything that, other than what we've seen today?

A. No, other than what I have here, what we've talked about.

Q. And as far as any Number 13, are the

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Whelan materials the only thing you've received that came from any other expert or consultant?

First, I'm saying have you received anything other than the Whelan materials? Dr. Hudson, have you received --

A. How is this different from the one above? I'm confused.

Q. Above refers to anything, maybe it doesn't in terms of what you have -- are the Whelan papers the only thing you've received from anybody from, that came from another expert in this case?

A. In this case, yes.

Q. Well, I mean -- okay. What do you think you got from -- you got in another case something?

A. Yes, from the lung case I had other, I had a Schuman deposition, and the Harris materials that we talked about, looked at earlier, that's all.

Q. Schuman, was that the plaintiff, or was that an expert?

A. I don't even remember.

Q. Do you have that?

A. Yes.

Q. Can I see that?

A. I haven't looked at it for years, I

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don't have any idea --

Q. Oh, this is of a Leonard M. Schuman, S-c-h-u-m-a-n, M.D., taken in the Chipalone case?

A. Okay, I'd forgotten entirely what it was, except the name stuck in my mind. I knew I had it there.

Q. But the Chipalone wasn't the case that you did with Arnold & Porter?

A. I mentioned it, but I guess not. I'm not sure. I don't remember what case it was about. We never talked about the case itself, we just talked about the scientific evidence involved.

Q. Does this Schuman deposition have to do with the opinions like you're giving in this case?

A. I don't even remember what's in it. I'd have to re-read my own notes there on the front in order to answer that.

Q. As far as you can remember, was this deposition friendly to your position or --

A. I don't even remember that, honestly.

Q. All right. Okay. You don't have anything relating to Sam Allgood, right?

A. No.

Q. Now, Dr. Hudson, do you believe that -- professionally, now, do you believe that causation

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of a disease may be established by opinion testimony if it is based on valid scientific evidence and it is based on reasonable scientific probability?

MR. BIERSTEKER: Object to form of the question, calls for legal conclusion.

MR. RILEY: Calls for legal conclusion.

MR. CRUSE: I object to form calling for legal conclusion for which this witness is not qualified to give opinion.

Q. (By Mr. Holford) Do you have an agreement or disagreement with that?

A. I think you'd have to say that again for me, please.

Q. All right. That causation of disease can be established by opinion if the opinion is based on valid scientific evidence and on reasonable scientific probability?

MR. BIERSTEKER: I object to form of the question, not only on the grounds previously stated, but on grounds that it's ambiguous, valid scientific evidence and reasonable scientific probability.

MR. CRUSE: Further, this witness

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isn't qualified to give a legal opinion.

A. (By the Witness) Is that a legal question?

Q. (By Mr. Holford) I'm asking you just -- I'm just asking you the question.

A. I don't think causation can be established by opinions, period. That isn't how you establish causation. You can have an opinion about it, but you're asking me if it can be established, if I heard you right.

Q. Well, this is a --

MR. BIERSTEKER: It's a legal question.

Q. (By Mr. Holford) Any time, Dr. Hudson, you have an experiment, whether in a laboratory or out in a cohort of people, or wherever you do, isn't the final conclusion on that experiment ultimately the opinion of somebody?

MR. CRUSE: That's a little vague, so I object to form of the question.

A. (Witness Answers) No, it may not do anything more than describe what was done. For example, in inventing a new device, it wouldn't be an opinion, you would simply say this is what I did and this is what came of it; I wouldn't see that as

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an opinion.

Q. (By Mr. Holford) That's why I opened the question, Dr. Hudson, as being to causation of disease, whenever an investigator goes to try to establish causation of a particular disease, whether they proceed by laboratory experiment or epidemiological studies or animal studies, whatever, in any case isn't their statement as to whether they've proven causation of the disease or not a matter of their opinion?

A. Well, I guess it could be stated as a matter of their opinion, but I don't think you can include in that the statement that it proves causation in any way.

Q. Well, all right. Let's take -- isn't there a well-known example of a water pump in, somewhere in England that people were found to be getting sick every time they drank from the water pump?

A. Yes, a cholera epidemic.

Q. Someone went to turn off all the water because they thought it was in the water as a primary source, and it turned out, no, they thought it was the pump, and it was in the water, one way or the other -- which way was it, Dr. Hudson?

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A. They thought it was in the water supply that fed that pump.

Q. Was it, as it turned out?

A. There was more than one water supply in that city, and only that particular pump appeared after they analyzed the cases to be leading individuals -- those who used that pump got the cholera more often than people who didn't, who lived in a different part of the city.

Q. So medical history would look back and say that if that -- when all that was said and done, it was established that the sickness from cholera caused by drinking from that pump was from that particular water supply that had the cholera agent in it?

MR. BIERSTEKER: Could I have that question read back, please?

MR. CRUSE: We'll go to lunch at 1:00.

MR. HOLFORD: We'll continue this deposition until I say when.

MR. CRUSE: No, you don't run the deposition, the witness does.

MR. BIERSTEKER: May I have the question read back because I didn't follow it.

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MR. CRUSE: Are you telling me when you get --

MR. HOLFORD: Not if you didn't follow it.

Q. (By Mr. Holford) You understood my question, Doctor?

MR. BIERSTEKER: I asked the question be read back; are you going to deprive me of that?

MR. HOLFORD: If the only reason is you didn't listen.

MR. BIERSTEKER: I listened. It was very convoluted. We'll have the question read back or walk out of the room, do you understand?

Q. (By Mr. Holford) Did you understand my question, Doctor?

MR. BIERSTEKER: Do not answer the question.

Q. (By Mr. Holford) Are you going to follow his advice?

MR. CRUSE: Don't listen to him.

MR. BIERSTEKER: This is an outrage.

MR. WALLACE: You're not emperor here.

MR. BIERSTEKER: May I have the

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question read back, please.

MR. WALLACE: Hold on. We're waiting for the question to be read back so the rest of us can understand it, if possible.

MR. HOLFORD: The record will reflect Dr. Hammond has attempted to answer my question -- Dr. Hudson has attempted three times, has been hushed up by the defense counsel.

MR. WALLACE: We're not plants here. We have the right to follow the flow of the examination and understand the questions as much as you do or anyone else in the room does. Object to your side bars.

(Whereupon, the requested portion of the record was read by the Reporter.)

MR. BIERSTEKER: Object to form of the question in that it presumes that medical history found that the water from that pump caused the cholera, and also if that's not being presumed I'm afraid I don't understand the question; but, Doctor, you may answer, if you can.

A. (Witness Answers) First of all, it did not show what was in the water. You said cholera in the water, they didn't understand what was in the water.

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Q. (By Mr. Holford) Okay.

A. They only understood that the water supply itself seemed somehow to be associated with more people getting the cholera than didn't, so they discontinued the use of that pump and the epidemic tapered off.

Q. So a person in charge of the investigation, or whatever, back at that time probably concluded that they solved the problem of people getting sick from drinking from the pump by shutting off that one water supply?

MR. BIERSTEKER: Objection, calls for speculation.

Q. (By Mr. Holford) Right?

A. I don't know exactly what he presumed, but I wouldn't make that historical jump at all, no.

Q. Was there a causation, as far as they understood it, established at that time?

A. No.

Q. Okay. That was a bad example then. Let's take -- you pick one, give me an example of a causation of disease established in times you remember?

A. Tuberculosis, as due to the tubercle

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bacillus.

Q. And how was that determined?

A. That was determined by animal experiments which consistently demonstrated this cycle, and finding the organism only in individuals with tuberculosis that produced the disease in human beings that produced the disease in the animals, and finding that they could then reproduce the disease, including the pathological lesions that resulted from the disease in the animals in which the tubercle bacillus from the human being had been injected, and even then they realized that this was not the only, this was not the sole cause, it was a -- it was a necessary cause, you had to have a tubercle bacillus, but having it didn't necessarily give you the disease.

Q. From introduction of the tubercle bacillus in a person in the onset of the tuberculosis?

A. No, no. Excuse me. Didn't inject it into people.

Q. You breathed it in, I guess?

A. Oh, yeah. Excuse me. I thought you meant as part of an experiment.

Q. No, sir; I just mean from exposure to

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the bacillus, to the onset of the tuberculosis disease was pretty quick, wasn't it?

MR. BIERSTEKER: Object to form.

A. (Witness Answers) It was actually one of the slower of infectious diseases.

Q. (By Mr. Holford) About how long would it take?

A. Well, we're getting into a very complicated area because there are a lot of individuals who couldn't come down with it at all, they were called carriers, they have the organism in their bodies but not the disease, no symptoms, it wasn't hurting them; there were others who would get it in to the brain lining and come down within three or four days and die within two or three weeks; and there were others who would get it in the lung, might not be detected in them for weeks, months or even years.

Q. That they had tuberculosis?

A. It was there, they just didn't always have a good way of detecting.

MR. BIERSTEKER: Mr. Holford, it's now after 1:00. I'd indicated to you off the record before we started that if we hadn't concluded by 1:00 we would be interested in taking

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lunch, but do you have much more?

MR. HOLFORD: I don't have much more in terms of questions, but if the kind of responses from counsel that I got earlier is going to --

MR. BIERSTEKER: Fine, we'll take lunch.

MR. HOLFORD: Well, I'm not agreeing to lunch at this point, and I don't think that it's -- although it's 1:00, Dr. Hudson indicated he didn't eat lunch.

MR. BIERSTEKER: But I do.

MR. WALLACE: We do.

MR. HOLFORD: I'm not going to ask much more questions myself, but if you all unilaterally decide against my wishes that lunch start occurring at this point, I will end my paying of Dr. Hudson until we resume, whenever that might be.

MR. CRUSE: We can judge everything, if it calls for a matter of going before the court, whether or not he should be paid, we can kind of look at past history of what other witnesses have done in this case.

MR. HOLFORD: Talk on.

MR. CRUSE: Also, about the lunch

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break, we started at 9:00, it's now 1:00, been going four hours. If you think you can finish shortly, I mean, we can stay; but if you're going to drag it on, or be longer --

MR. HOLFORD: I've got -- this is an involved question, but then I've got that and one other.

MR. CRUSE: Let's see if you can finish, we'll make a reasonable effort, if you can finish in a few minutes.

Q. (By Mr. Holford) Is that all right with you, Dr. Hudson?

A. Yes.

Q. Now, so when all was said and done on the investigation you described of the causation of tuberculosis, the ultimate finding that the -- what was it called?

A. The tubercle bacillus.

Q. -- tubercle bacillus was a cause of tuberculosis was an opinion, wasn't it, a well-based opinion, but it was an opinion, wasn't it?

A. Only if you don't allow for the existence of scientific facts. If you want to call every scientific fact that is established an

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opinion, then I would agree with you.

Q. No, sir. I'm only dealing in causation of disease. That's not always a simple scientific fact, is it?

A. No, it isn't.

Q. Isn't it appropriate to call conclusions as to the causation of disease generally opinions?

A. At one stage I would call them opinions, at other stages I would call them established facts.

Q. You mean once -- initially it may be called an opinion, but after --

A. Yes.

Q. -- decades of observation of it it becomes what you might call a fact?

A. After decades of not just observation but replication, others doing the same thing and getting the same results, yes.

Q. And before you would consider an opinion as to causation of disease valid, is it fair to say that it would have to be based on valid scientific evidence and on at least a reasonable scientific probability of being true?

MR. BIERSTEKER: Object to form.

A. (By the Witness) I was with you till

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the last part.

Q. (By Mr. Holford) All right. Let me do it this way then. We're all, I think, in agreement, we want to get through here, okay, I want you to assume, all right -- you understand as expert I can ask you to assume matters, right?

A. Sure.

Q. I want you to assume that in court causation of disease may be established by opinion testimony if the opinion testimony is based upon valid scientific evidence and on reasonable scientific probability; do you understand that?

A. No, because I don't understand why the words opinion are even needed in the statement. It would be easier for me to answer if we're dropping that. I don't see what it would, how it would change it.

Q. Let's say causation of disease may be established by testimony if the testimony is based on valid scientific evidence and on reasonable scientific probability; do you understand that?

A. Yes, I understand it, but I don't believe testimony can -- if by that we're talking about testimony in court?

Q. Yes, or testimony in court?

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MR. CRUSE: Let him finish.

A. (Witness Continues) Then I don't believe that it can be established on testimony, because you have to know what the testimony is, you have to weigh its value in order to decide whether it's sufficient to establish causation.

Q. (By Mr. Holford) Well, let's say that the question here is whether this testimony is even going to be admissible or not, is even going to be considered in court?

MR. CRUSE: He isn't qualified at all to answer any question like that.

Q. (By Mr. Holford) I'm not asking him what that level is. I'm going to ask you to assume that testimony is proper in court as to causation of disease, not the weight, not how much effect it has, but just that it's appropriate testimony in causation of disease, if it is based on valid scientific evidence and on reasonable scientific probability?

MR. BIERSTEKER: What's the question?

MR. CRUSE: I'm lost.

Q. (By Mr. Holford) Do you understand that? Will you assume it?

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A. I assume it, except I can't answer the part about whether it would be acceptable as testimony or should be acceptable as testimony.

Q. So you're not willing to assume that if testimony is based on valid scientific evidence and on reasonable scientific probability, testimony as to causation of disease, that that is, should be considered in court?

MR. BIERSTEKER: Should be considered in court?

MR. CRUSE: He'd have to hear the testimony to weigh it. You're just mis-characterizing what he said.

MR. BIERSTEKER: It doesn't matter what this witness thinks should be admissible in a court of law.

A. (Witness Answers) Yeah, it sounds to me more like a question you would ask the judge than me, because I don't know how to answer it the way you phrased it.

Q. (By Mr. Holford) Let me ask you this, do you agree that epidemiological, animal, and in vitro studies are three types of scientific evidence used to establish cancer, coronary heart disease, and other non-acute disease causations?

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A. I'm wondering if you mean in vivo instead of in vitro.

Q. No, sir; I mean in vitro.

A. You're talking about laboratory experiments.

MR. CRUSE: I'll object to the question, the form, as being vague in that the type of experiments are undefined, and completely ambiguous.

MR. WALLACE: You mean all those together or separately?

Q. (By Mr. Holford) Do you understand?

A. Say it again, I'll try to answer it.

Q. Do you agree or not that epidemiological, animal, and in vitro studies are three types of scientific evidence used to establish cancer? Limit it to that.

A. Cancer --

MR. BIERSTEKER: Used to establish cancer?

Q. (By Mr. Holford) Causation, sorry.

A. Three types of approaches that are used in an attempt to find the cause of cancer; yes, sir, I agree to that.

Q. Do you agree that cigarettes are

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unreasonably dangerous, taking into consideration the risks of cigarette smoking and any benefits of cigarette smoking?

MR. BIERSTEKER: Object to form of the question, also to the extent that it calls for legal conclusion. You may answer.

A. (Witness Answers) Are you asking me now as a historian, physician, personal or what?

Q. (By Mr. Holford) A doctor?

A. And you're asking me if I think the risks outweigh or don't outweigh the benefits of smoking?

Q. Yes, I want you to compare the risks of cigarette smoking and any benefits, if any, of cigarette smoking; and my question is, do the risks outweigh the benefits to an extent that cigarettes are unreasonably dangerous?

MR. BIERSTEKER: Again object.

A. (Witness Answers) I can answer that for myself personally, but I can't answer it for other people. I think other people have to weigh those two themselves, and come to their own conclusion.

Q. (By Mr. Holford) Given what knowledge they have, in other words, right?

A. Right.

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Q. Yeah, but -- no, I'm asking you in your professional opinion as a physician?

A. I --

MR. BIERSTEKER: He's already said he can't.

A. (Witness Continues) I can answer it for me, but not as a physician because I would simply educate the patient, let them make the decision. I would not presume to make that judgment for them.

Q. (By Mr. Holford) Well, sir, in educating your patient, would you impart to that patient that the risks of smoking of cigarettes so outweigh the benefits of smoking that it's an unreasonably dangerous activity?

MR. CRUSE: Object to form of the question. He's already answered it.

MR. BIERSTEKER: Object to form.

Q. (By Mr. Holford) In your professional opinion, would you tell your patients that?

MR. BIERSTEKER: He's already said he doesn't have a professional opinion on that particular subject, he can't have one. Your question asks him to assume he does in terms of what he's going to impart.

MR. RILEY: Also calls for a legal

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conclusion.

MR. BIERSTEKER: That as well.

Q. (By Mr. Holford) Did you understand my question, Dr. Hudson?

A. I believe so. If I can say it back and ask it, if I understand it in this way, are you asking would I tell patients that I think the risks of their smoking outweigh the benefits to them, is that the same --

Q. Let's start with that. Would you tell them that?

A. I would tell them where I'm concerned that I believe that --

Q. As their medical doctor, right?

A. Well, see --

Q. You're not talking to a friend or acquaintance, you're talking to a patient?

MR. CRUSE: Let him answer. You've cut him off twice.

Q. (By Mr. Holford) If you're talking to him as a patient, as a medical doctor, would you tell him that?

A. If I were practicing now, you mean?

Q. Yes, sir.

A. Yes, I would advise, I would tell them

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that I thought the risks -- I can't say they're greater than the benefits, I could only emphasize the risks to them, the benefits they'd have to decide for themselves.

Q. Well, sir, you smoked yourself, right?

A. Right.

Q. Do you believe as a medical doctor that the risks, and what you know now, some great number of years later, that the risks of smoking outweigh the benefits of smoking?

MR. BIERSTEKER: Object to form of the question.

MR. RILEY: He's already answered the question about four times already.

A. (Witness Answers) Well, I didn't quit because of risk, concern about risk.

Q. (By Mr. Holford) I'm talking about now, Doctor?

A. But you asked -- you were asking me I smoked before, and I don't now.

Q. Well, I said it's been a great number of years since you smoked, right?

A. Right.

Q. So based on what you know now, if you were still practicing, would you tell your patient

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who was smoking that the risks of smoking outweigh the benefits of smoking?

MR. RILEY: Asked and answered.

MR. WALLACE: Wait a second, Doctor.

MR. BIERSTEKER: I object again in the sense that calls for legal conclusion, number one; number two, assumes facts in evidence that he has a professional opinion as opposed to a personal one for risks and benefits of smoking. He just answered the question.

MR. CRUSE: He just answered the question. He said he'd tell him the risks, the benefits are up to the individual. That's in the record twice.

MR. BIERSTEKER: With that objection, you may answer.

A. (Witness Answers) I would emphasize the risks and tell them that I'm leaving the decision to them, and that if they have difficulties I'll continue to care for them.

Q. (By Mr. Holford) Would you tell them that their smoking could cause them lung cancer?

A. I would tell them that it is a well-known risk factor.

Q. Risk factor, you said?

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A. Yes.

Q. Did you use that term in your medical practice?

A. No.

Q. Where did you hear that?

A. You were asking me about now.

Q. I know. Where did you ever hear the term "risk factor"?

A. When did I first hear it?

Q. Yes, sir; in connection with smoking causation, disease causation by smoking, when did you ever hear the term "risk factor"?

MR. RILEY: The question doesn't make any sense, inherently contradictory.

A. (Witness Answers) Probably when we initiated a risk factor assessment as an exercise for medical students to take this blank form to their patients and go through these factors in order to help arrive at some sort of health profile for them, and --

Q. (By Mr. Holford) And risk factor means substantial chance of causing the disease in question, right?

MR. BIERSTEKER: Object to form of the question. He just distinguished between risk

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factor and cause. You're asking him to assume they're the same thing.

Q. (By Mr. Holford) Is that right? What did risk factor mean on your form?

A. It meant that there was enough scientific evidence to support the fact that people who use cigarettes in large numbers are more likely to get cancer, just like if you eat too much you're more likely to get heart disease, not that it causes it necessarily, but that it increases the likelihood that you'll get it, and that's what the whole assessment was about, to sum those up.

Q. So you knew that not everyone that smokes ends up getting cancer, right?

A. Right.

Q. So you're not going -- you are not going to put on the form for the people that if they smoke they will get cancer, right?

A. That's right.

Q. All you can tell them is that their smoking, their chances of getting cancer are greatly multiplied from if they didn't smoke, right?

A. That's right.

Q. And that those cancers of -- chances are

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greatly multiplied as to lung cancer, right?

A. That's right.

Q. Larynx cancer?

A. Lesser, less; but, yes.

Q. Emphysema?

A. Yes.

Q. Chronic bronchitis?

A. Yes.

Q. Coronary heart disease?

A. Yes.

Q. Stroke?

A. Yes.

Q. Cancer of the oral cavities; that is, lip, tongue, mouth, pharynx?

A. For pipes and cigars, yes, mostly.

Q. Also cigarettes, right?

A. To a -- yes, to a lesser extent.

Q. Did your cards discuss addiction to nicotine?

A. I don't think it had the word addiction in it anywhere. This was about 19, oh, '72 or 3 that it was first used on the ward.

Q. Did it tell them about the nicotine in cigarettes?

A. No, it didn't tell them anything. It

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merely asked them to indicate which of these habits or forms of behavior they engaged in.

Q. And cigarette smoking was one of them?

A. Yes.

Q. Now, considering all of these increased likelihoods of getting all of the diseases we just mentioned, if you had a patient now that you knew smoked you would tell them that information, right?

A. What information?

Q. That their smoking greatly raises their chances of getting these diseases from cancer of the lung, larynx, and all the ones we just mentioned?

A. Yes, sir.

Q. And so if you, Dr. Hudson, after the years you've had in medical practice consider these diseases connected with smoking that we just went through, do you believe in your professional capacity that cigarette smoking is unreasonably dangerous because of those exposures?

MR. BIERSTEKER: Objection to form in the sense it's vague and ambiguous as to what reasonably dangerous means; also object to the extent it calls for a legal conclusion; I object because the question has been asked and answered,

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and the witness has already testified that he cannot provide you with a professional or expert opinion on that subject.

Q. (By Mr. Holford) Did you understand my question, Dr. Hudson?

A. If you would say it again --

Q. Yes, sir.

A. -- very briefly, I think it will come back. I got side tracked.

Q. Do you as a medical doctor of a great many years experience, and understanding the connections of the diseases we just listed with smoking, and considering those risks of smoking versus any benefits imaginable to cigarette smoking, is it your professional opinion that cigarettes are unreasonably dangerous?

MR. BIERSTEKER: Same objection.

A. (Witness Answers) Yeah, I don't know what unreasonably dangerous means. I would -- I guess I'm back to the point of pointing out the connections, just as you did, and then telling them what they do about it is their business as individual human beings.

Q. (By Mr. Holford) Well, I understood that, Doctor.

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MR. CRUSE: Let's go to lunch. This is ridiculous. You're asking the same thing over and over. He's answered it five times.

Q. (By Mr. Holford) And I want to just go one step beyond that, and I'm going to define for you; do you have any problem with dangerous -- you know what dangerous means, right?

A. Yes.

Q. And you know what a reasonable danger is?

A. Well, danger is a relative term, and reasonable is even more relative.

Q. Right, these are all relative terms?

A. Yes, I understand them as relative terms.

Q. Unreasonably dangerous means dangerous beyond an extent that you could consider reasonably incurring?

A. For me?

Q. You generally, you as a generalized person, okay?

A. For me that's unreasonable danger, personally; for my patient, that's their decision.

Q. Well, I'm not talking about decisions here, and I'm really not talking about you --

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MR. CRUSE: Yeah, you are.

Q. (By Mr. Holford) I'm really not talking about you personally, Dr. Hudson. I'm talking about you as a medical doctor. You do have opinions all the time as a result of being a medical doctor, don't you?

A. Yes, I do.

Q. So I'm asking you, and if you have an opinion I want you to state it, if you want to say you just don't have an opinion, that's your option to.

A. I have an opinion. I thought I had stated it. I think there is a connection, such as you just outlined where you used the word connection, but you've gone beyond that, I thought, asked me if I would thereby somehow declare it unreasonably dangerous in a given patient circumstance.

Q. No, sir; not a given --

MR. CRUSE: Wait, finish your answer.

MR. HOLFORD: I thought he did.

A. (Witness Continues) Otherwise it makes no sense to me, as an abstraction.

Q. (By Mr. Holford) Okay. Well, that may

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be the answer then. When I ask you if cigarettes are unreasonably dangerous, taking into account their risk versus their benefits, you just don't have an opinion on that; is that right?

MR. BIERSTEKER: Professional opinion, expert opinion.

MR. WALLACE: He does.

Q. (By Mr. Holford) Professional opinion?

MR. WALLACE: His opinion is it's up to the individual.

MR. RILEY: Other than what we've been talking about the last 20 minutes.

MR. WALLACE: You don't get to keep asking the question until he agrees with you.

Q. (By Mr. Holford) I mean; in other words, I'm not talking about what you tell a patient, I'm not talking about what an individual patient thinks themselves, I'm talking about what you, a doctor, thinks of cigarettes?

A. I think they're bad.

Q. Yes, sir; I understand that. Do you think they're unreasonably dangerous, taking into account the risk versus the benefits?

MR. BIERSTEKER: To whom? Objection.

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Q. (By Mr. Holford) If you have an opinion on that?

A. I guess I don't.

MR. CRUSE: Let's get out of here.

MR. HOLFORD: That's it. Thank you, Doctor.

MR. CRUSE: One thing on the record, Doug, the judge entered an order that you were supposed to answer our interrogatories specifically, and the discovery cut off is April 1, which is in about two weeks, and I was wondering when we could expect the answers as per the judge's order?

MR. HOLFORD: Number one, I checked my office yesterday, and I have not received the order. I have not gotten a copy from any defendant, I have not seen the orders at all. I don't disbelieve what Mr. Riley, I think it was, told me it said -- or, no, it was Mr. Wallace told me it said; and as to the point you raised, Mr. Cruse, I discussed that at length with Mr. Riley at the last --

MR. CRUSE: What's the answer?

MR. HOLFORD: When I get to it, and if you think --

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MR. CRUSE: No, here's what I want to know, discover, if you can't give me some kind of indication as to when you're going to answer them within a reasonable time or when you're going to follow the judge's orders, should we file another motion?

MR. HOLFORD: Exactly, and I told -- as I told Mr. Riley, when I see your motion for summary judgment, and I start -- which I understand is going to be soon -- and I start marshaling my evidence for opposition of those motions, I expect answers to your interrogatories will fall out of that.

MR. RILEY: The motion for summary judgment -- really, your obligation to answer interrogatories is independent of our summary judgment motion.

MR. HOLFORD: Mr. Wallace told me I would see motions for summary judgment, as the judge apparently indicated.

MR. RILEY: You're olbigated to answer the interrogatories regardless.

MR. HOLFORD: If I don't see your motion in a week, I'll undoubtedly start digging in. I'm not going to sit on the judge's order.

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MR. CRUSE: I'm just telling you that --

MR. HOLFORD: You've got a motion to file, given to you when you want --

MR. CRUSE: Discovery deadline is in two weeks, trial is set in January. I don't think we're being very unreasonable. I just want to give you a chance, ask you, tell the judge I asked you and you didn't give me an answer.

MR. HOLFORD: Well --

MR. RILEY: Which now we've done.

MR. CRUSE: I've done that. That's fine.

MR. HOLFORD: As I told Mr. Riley, I don't make a promise that I don't know that I can fulfill. Okay.

(Witness excused.)

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Robert P. Hudson, M.D.
ROBERT P. HUDSON, M.D.

STATE OF Kansas)
) SS:
COUNTY OF Wyandotte)

Subscribed and sworn to before me this 12th day of April, 1994.

LISA M. CARLSON
Notary Public - State of Kansas
My Appt. Expires Nov. 4, 1996

Lisa M. Carlson
NOTARY PUBLIC

My Commission Expires: 11-4-96

PLF: MRS. SAMUEL E. ALLGOOD, et al.

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C E R T I F I C A T E

I, ANN M. HAMILTON, a Certified Shorthand Reporter within and for the State of Kansas, hereby certify that the within-named witness was first duly sworn to testify the truth, and that the deposition by said witness was given in response to the questions propounded, as herein set forth, was first taken in machine shorthand by me and afterwards reduced to writing under my direction and supervision, and is a true and correct record of the testimony given by the witness.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorneys or counsel, or financially interested in the action.

WITNESS my hand and official seal at Overland Park, Johnson County, Kansas, this 18th day of March, 1994.

ANN M. HAMILTON, RPR
Registered Professional Reporter

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In re: MRS. SAMUEL E. ALLGOOD, et al., vs. R. J. REYNOLDS TOBACCO COMPANY, et al.

Case No. H-91-0158

CORRECTION SHEET FOR DEPOSITION OF

ROBERT P. HUDSON, M.D.

Page	Line	Correction	Reason for change
11	22	"Yes" to "No"	Possible memory error
17	1	"Chipalone" to "Cipollone"	Spelling
69	2	"portion" to "portions"	Typographical error
145	12	"McKrae" to "McCrae"	Spelling
160	3, 7	"Chipalone" to "Cipollone"	Spelling

I certify that I have read my deposition in the above case and request that the above changes be noted.

12 APR 1994
DATE

Robert P Hudson M
ROBERT P. HUDSON, M.D.

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